



## ACT NATIONAL PREVENTIVE MECHANISM STANDARD OPERATING PROCEDURES

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<b>Approvers</b>	Dr Penelope Mathew (President and Human Rights Commissioner) Rebecca Minty (ACT Inspector of Custodial Services) Iain Anderson (ACT Ombudsman)

## Introduction

These Standard Operating Procedures (SOP) complement and are to be read together with the [ACT National Preventive Mechanism \(NPM\) Guidelines](#). The SOP sets out agreed arrangements and working methods for how the three agencies that comprise the ACT National Preventive Mechanism (NPM)— the ACT Custodial Inspector, ACT Human Rights Commission and ACT Ombudsman— will exercise their functions as the ACT NPM.

The SOP has been developed consistent with the obligations in the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the provisions of the [Monitoring of Places of Detention \(Optional Protocol to the Convention Against Torture\) Act 2018](#) (ACT) (the MPD (OPCAT) Act).

The SOP includes, where relevant, additional references to best practice as set out in the various guidelines and jurisprudence of the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN SPT).

## Governance Meetings

The ACT NPM holds at least two Governance meetings a year. They may be held in person or online and are chaired on an annual rotating basis by the:

- ACT Ombudsman (or their representative)
- President and Human Rights Commissioner (or their representative)
- Inspector, ACT Inspector of Custodial Services (or their representative).

The quorum is at least one representative from each of the three member agencies of the ACT NPM.

The ACT NPM Coordinator provides secretariat support and develops a preliminary agenda for each meeting in consultation with the membership. The agenda and supporting papers for each meeting are circulated at least five working days before the meeting.

Members may request external people or organisations be invited to attend to provide feedback on ACT NPM activities or provide briefings on related matters.

Governance meetings include group discussions to share experiences and learnings, update members on recent or proposed activities, and may include action items.

Meeting minutes will be circulated within ten working days of the meeting to each member and approved observers or contributors, as appropriate, for comment.

## Working methods—ACT NPM members

### ACT NPM activities

The ACT NPM may be involved in a variety of activities, including:

- undertaking visits
- publishing reports
- making recommendations and suggestions
- making submissions
- offering training or education on OPCAT or the NPM
- sharing protected information with another entity.

Members consider that ACT NPM decisions are 'collective decisions'. Members will be collaborative, transparent and will consult each other across the continuum of ACT NPM activities.

Members will develop a shared strategic work plan outlining priorities relating to visits and submissions on behalf of the ACT NPM.

## Notifying other members

Members recognise that each agency has other legislated oversight areas of responsibility that may overlap with NPM responsibilities. Members will do their best to keep each other informed of relevant information and activities (see [Information sharing](#) below).

Members agree to notify each other, and the ACT NPM Coordinator, when they intend to use the following powers of the MPD (OPCAT) Act:

- s8J (inspection of place of detention)
- s8M (access to information, documents and other things)
- ss8P-R (recommendation and reporting about treatment of detainees in places of detention)
- S8U (referral to investigative entity).

Notification can be made to an agreed point of contact in each agency.

## ACT NPM Coordinator

Members are supported in their work by the ACT NPM Coordinator, who is based in the ACT Ombudsman's office. While the ACT NPM Coordinator is available to support members in their work, each member is responsible for the implementation of their own functions under OPCAT and the MPD (OPCAT) Act.

The ACT NPM Coordinator will:

- promote collaboration, cooperation, consistency and alignment with OPCAT's international standards between the members
- support the development of members' monitoring methodologies, guidance tools and other supporting materials
- coordinate joint ACT NPM work on behalf of the membership –e.g. contributions to the Australian NPM annual report, drafting joint submissions and arranging meetings with relevant stakeholders
- provide secretariat support to Governance meetings.

The ACT NPM Coordinator cannot compel or direct any member in conducting OPCAT-related activity.

## Publications

The ACT NPM logo and common branding will be used on all reports and other joint written work such as submissions and letters, to support communication using the common identity and to strengthen public awareness of the ACT NPM.<sup>1</sup>

ACT NPM public reports and submissions will be published on the ACT NPM website.

Members are encouraged to circulate and promote ACT NPM work using their own networks and communications channels.

## Member agency annual reports

In the absence of a dedicated ACT NPM annual report, each member will include information about ACT NPM activities within their own annual reports.

Members will liaise with the ACT NPM Coordinator to ensure consistency of published information.

## Media engagement

Each ACT NPM member agency is authorised to speak on behalf of the ACT NPM when engaging with the media.

Members agree that all media enquiries will be directed to [actnpm@ombudsman.gov.au](mailto:actnpm@ombudsman.gov.au). The ACT NPM Coordinator will liaise with ACT NPM member agencies and their media teams on an appropriate response to inquiries and requests for interviews.

The ACT NPM will be proactive in the distribution of media statements and public reports to achieve further recognition of its mandate and recommendations.<sup>2</sup>

## Information sharing

Section 8S(7) MPD (OPCAT) Act defines 'protected information'<sup>3</sup> as any information about a person collected by the NPM as part of the exercise of NPM functions. Protected information has strict secrecy provisions.

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<sup>1</sup> United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 21 [8].

<sup>2</sup> United Nations Subcommittee for the Prevention of Torture (2019). *Visit to Costa Rica undertaken from 3 to 14 March 2019: recommendations and observations addressed to the national preventive mechanism* (CAT/OP/CRI/RONPM/1), 5 [22].

<sup>3</sup> *Section 8S (7), MPD (OPCAT) Act* [protected information means information about a person that is disclosed to, or obtained by, the NPM because of the exercise of a function by the NPM or a member of staff of the NPM under this Act.]; see also United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [37].

Identifying information<sup>4</sup> is a subset of protected information and is any information that allows a person to be identified. Identifying information protections extend to a wide range of persons including, but not limited to, persons deprived of their liberty, their families, lawyers, members of non-governmental organisations and State officials.<sup>5</sup>

## Between members of the ACT NPM – from NPM functions to the NPM

Protected information, including identifying information, obtained by a member in an NPM function may be shared among the three member agencies for the purposes of their NPM functions.

## Between members of the ACT NPM – from non-NPM functions to the NPM



The UN SPT notes that NPMs that undertake other non-NPM functions, should encourage departments or staff from these non-NPM functions to contribute to the work of the NPM, as that cooperation might lead to synergies and complementarity.<sup>6</sup>

All members of the ACT NPM have oversight roles and responsibilities that are ‘non-NPM functions’:

- The ACT Ombudsman considers complaints about the actions of ACT government agencies and ACT Policing and provides oversight of:
  - the ACT Freedom of Information (FOI) framework
  - the Reportable Conduct Scheme
  - ACT Policing
  - the ACT Integrity Commission (as Inspector)
  - covert, intrusive and coercive powers.

The ACT Ombudsman also provides support to the Judicial Council as its Principal Officer.

The ACT Ombudsman is also the Commonwealth Ombudsman, which has oversight of the Australian Federal Police.

- The ACT Human Rights Commission offers a range of services including oversight of systemic issues, review of laws, and advice to government and others regarding human rights compliance; independent complaint handling covering a range of service providers, and discrimination matters; advocacy for children, young people and adults experiencing vulnerability; consultation with children and young people to

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<sup>4</sup> Section 8S (7), *MPD (OPCAT) Act* [identifying information, about a person, means information that— (a) identifies the person; or (b) allows the person’s identity to be worked out.]; see also United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [37].

<sup>5</sup> United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19 [7].

<sup>6</sup> United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 21 [19]; United Nations Subcommittee for the Prevention of Torture (2024). *Advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex 1 to (CAT/C/79/2), 18 [7].

enable their participating in decision-making about matters that affect them; advocacy, information, therapeutic services and support to victims of crime; and community education, training and information about human rights.<sup>7</sup>

- The Custodial Inspector provides oversight of ACT correctional and youth detention facilities through conducting reviews of facilities and services and reviewing critical incidents.

Section 8S of the MPD (OPCAT) Act allows an entity that has information relevant to the NPM's examination of treatment of detainees in a place of detention to provide that information at any time to the NPM. This allows members of the NPM to share information gathered in non-NPM functions with the other members of the NPM, regardless of secrecy provisions.<sup>8</sup>

Members agree to work under the principle of sharing information with the NPM that can be shared to the extent that it can be shared.

However, members will be mindful when sharing information from non-NPM functions to other NPM members for the purposes of the NPM, and will generally share only de-identified information, unless otherwise necessary, or with consent.

## Between members of the ACT NPM – from NPM functions to non-NPM functions



The UN SPT notes that NPMs must ensure that confidential information acquired in the course of its work is fully protected.<sup>9</sup> Even when the institution performing the functions of the NPM has investigative functions or has an obligation to report, when operating as an NPM under the OPCAT, the preventive nature of its work means that confidentiality should not be breached.<sup>10</sup>

Members will not share protected information, including identifying information, obtained by a member in an NPM function to member's non-NPM functions, without the express consent of the person concerned, or the NPM is satisfied that referring the matter is necessary and reasonable in the public interest.<sup>11</sup>

Members note that while the MPD (OPCAT) Act permits sharing of protected information where it is 'necessary and reasonable', this runs contrary to Article 21 of the OPCAT, which prioritises

<sup>7</sup> ACT Human Rights Commission (24 July 2025) *Operations Protocol 2025* – 28, 4.

<sup>8</sup> Section 8T, 17A (1) (b), (2) and 17B, MPD (OPCAT) Act; see also ACT Legislative Assembly (2024). *Monitoring of Places of Detention Legislation Amendment Bill 2024: Revised Explanatory Statement*, 6.

<sup>9</sup> United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [37].

<sup>10</sup> United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19 [6].

<sup>11</sup> Section 8U (3) (b), MPD (OPCAT) Act; OPCAT Article 21 (2); see also United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19 [6-7].

the confidentiality of the information.<sup>12</sup> Any decision to share information under s8U(3)(b) of the MPD (OPCAT) Act will be agreed by delegates from all three NPM agencies.

## To external parties – responsible entities



The UN SPT notes that the obligation of confidentiality should not be construed as preventing NPMs from disseminating information, provided that the information does not include personal data, unless express consent is given by the person concerned. For example, where information relating to systematic issues or crimes is gathered, its existence can be shared in general terms with a responsible entity.<sup>13</sup>

The MPD (OPCAT) Act<sup>14</sup> allows members to share protected information<sup>15</sup> that is not identifying information with a responsible entity.

Members are lawfully permitted to share protected information that is identifying information with a responsible entity, in circumstances where the member is satisfied the disclosure is necessary and reasonable in the public interest.<sup>16</sup>

A responsible entity for a place of detention includes:

- the responsible Minister for the place of detention
- the responsible director-general for the place of detention
- the detaining authority for the place of detention.<sup>17</sup>

While protected information that is not identifying information can lawfully be shared with a responsible entity, members must assess whether that information might inevitably lead to the disclosure of personal data or to the identification of a person who has not given their express consent for their personal data to be revealed. In such cases the obligation of confidentiality under Article 21 of the OPCAT<sup>18</sup> must be considered and any decision to share information under s8S(3)(e), of the MPD (OPCAT) Act will be agreed by delegates from all three NPM agencies.

While protected information that is identifying information can be shared with a responsible entity in limited circumstances, members shall endeavour, where appropriate, to first obtain the express consent of the person concerned before sharing the information. Any decision to

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<sup>12</sup> See also United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19 [10].

<sup>13</sup> United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19-20 [4-10].

<sup>14</sup> Section 8S (7), MPD (OPCAT) Act.

<sup>15</sup> Section 8S (3) (d), MPD (OPCAT) Act.

<sup>16</sup> Section 8S (3) (e) (iii), MPD (OPCAT) Act.

<sup>17</sup> Section 6A (1), MPD (OPCAT) Act.

<sup>18</sup> OPCAT Article 21 (2); United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19 [6-7].

share information under s8S(3)(e), of the MPD (OPCAT) Act will be agreed by delegates from all three NPM agencies.

## To external parties - Australian NPM Members and the UN SPT

The ACT NPM is able to share protected information with the Australian NPM Coordinator, the Commonwealth NPM, or an NPM of another Australian State or Territory, as these bodies together with the ACT NPM, jointly make up the Australian NPM and are a single entity for the purposes of the OPCAT.<sup>19</sup>

The ACT NPM is authorised to share protected information with the UN SPT while it is exercising its mandate under Article 11 of the OPCAT.<sup>20</sup>

In all cases, members should still consider whether the sharing of protected information is necessary and reasonable and where possible endeavour, where appropriate, to first obtain the express consent of the person concerned.

## To external parties – investigative entities

For information sharing with investigative entities see [Working with investigative entities](#) below.

## Working methods—ACT NPM staff



The UN SPT notes that in cases where an NPM is located within an institution with a more general remit, it should have its own staff.<sup>21</sup> Additionally, global practice also suggests that establishing a separate unit allows the NPM to exercise its preventive mandate more effectively and independently.<sup>22</sup>

Resources do not allow members to provide dedicated staff to the ACT NPM function, nor establish a separate unit for the function. Members will therefore take steps to avoid actual or perceived conflicts with other functions.

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<sup>19</sup> OPCAT Article 17; see also United Nations Subcommittee for the Prevention of Torture (2023). *Visit to Australia undertaken from 16 to 23 October 2022: recommendations and observations addressed to the State party* (CAT/OP/AUS/ROSP/1), 4 [19].

<sup>20</sup> Section 17A (i) (a) and 2 of the MPD (OPCAT) Act; see also OPCAT Article 20 (f).

<sup>21</sup> United Nations Subcommittee for the Prevention of Torture (2024). *Advice provided by the Subcommittee in response to requests from national preventive mechanisms*, Annex 1 to (CAT/C/79/2), 17 [4]; see also United Nations Subcommittee for the Prevention of Torture (2023). *Visit to Australia undertaken from 16 to 23 October 2022: recommendations and observations addressed to the State party* (CAT/OP/AUS/ROSP/1), 5 [26].

<sup>22</sup> United Nations Subcommittee for the Prevention of Torture (2024). *Advice provided by the Subcommittee in response to requests from national preventive mechanisms*, Annex 1 to (CAT/C/79/2), 18 [5]; see also ACT Legislative Assembly (2024). *Monitoring of Places of Detention Legislation Amendment Bill 2024: Revised Explanatory Statement*, 3.

Leadership of the ACT NPM is equally and collectively vested in the heads of each ACT NPM member agency. The head of each ACT NPM member agency will delegate powers of the MPD (OPCAT) Act to staff within their organisations.<sup>23</sup>



The UN SPT notes that prevention work is multifaceted and interdisciplinary requiring staff with a diversity of backgrounds, capability and professional knowledge.<sup>24</sup> Additionally, while all people deprived of their liberty form a vulnerable group, some groups experience particular vulnerability, and expertise in relation to all such vulnerabilities is needed to lessen the likelihood of ill-treatment.<sup>25</sup>

Members will take steps to ensure that collectively ACT NPM staff have the required multidisciplinary capabilities and professional knowledge to undertake the work of the ACT NPM.

ACT NPM staff will regularly review their working methods and will undertake ongoing training to enhance their ability to exercise their responsibilities under the OPCAT.<sup>26</sup>

The ACT NPM will collectively strive for an appropriate gender balance and adequate representation of Aboriginal and Torres Strait Islander people, relevant ethnic and minority groups, people with disability, people with lived experience of deprivation of liberty and trans and gender diverse people.<sup>27</sup>

Members will consider drawing on expertise from staff from non-NPM functions or contract in expertise to assist with NPM functions as needed.<sup>28</sup>

## Working with vulnerable people

ACT NPM staff and contractors may interact with vulnerable children, young people and adults while conducting visits. Irrespective of whether this contact may be described as 'incidental', members are strongly encouraged to require ACT NPM staff and contractors to obtain

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<sup>23</sup> Section 8I, MPD (OPCAT) Act.

<sup>24</sup> United Nations Subcommittee for the Prevention of Torture (2010). *The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT/OP/12/6), 4 [5(i)]; see also United Nations Office of the High Commissioner for Human Rights (2018), *Preventing Torture: The Role of National Preventive Mechanisms*, 17.

<sup>25</sup> United Nations Subcommittee for the Prevention of Torture (2010). *The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT/OP/12/6), 4 [5(j)].

<sup>26</sup> United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [31]; see also Recommendation 11.11, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). *Final Report. Volume 11: Independent oversight and complaint mechanisms*, 111.

<sup>27</sup> OPCAT Article 18 (2); see also United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [17, 20]; see also Recommendation 11.11, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). *Final Report. Volume 11: Independent oversight and complaint mechanisms*, 111.

<sup>28</sup> Section 8H, MPD (OPCAT) Act; see also United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 17.

registration under the *Working with Vulnerable People (Background Checking) Act 2011* (ACT) or equivalent from another state or territory.<sup>29</sup>

## Trauma-informed and culturally safe

ACT NPM staff will operate in a trauma-informed and culturally safe manner (see also '[Do no harm](#)').

Trauma-informed and culturally safe care and practice is a strengths-based approach that is guided by a shared understanding of, and responsiveness to, the impacts of trauma. It prioritises cultural, spiritual, physical, psychological, and emotional safety but does not avoid addressing issues of high importance that are likely to be sensitive and triggering of trauma responses.<sup>30</sup>

Providing trauma-informed and culturally safe care and practice to Aboriginal and Torres Strait Islander people requires acknowledging the intergenerational and interpersonal traumas that directly stem from colonisation and ongoing government policies that perpetuate systemic racism and breed distrust of institutions. It requires acknowledging differences in understanding of concepts such as disability and family responsibilities and avoiding use of deficit and disempowering language.<sup>31</sup>

## Conflicts of interest

ACT NPM staff must discharge the mandate of the ACT NPM effectively and independently.<sup>32</sup>

A conflict of interest arises when an ACT NPM staff member's private interests or connections may lead to improperly influencing the performance of their official duties and responsibilities.

- ACT NPM staff must ensure they have disclosed any real, apparent or potential conflicts of interests. Disclosure is a continual obligation.
- Any conflicts of interests that have been disclosed by ACT NPM staff will be effectively managed through the member agencies' existing conflict of interest policies.

## Protections for people assisting the NPM



The UN SPT notes that fear of reprisals is a major obstacle to effective monitoring work.<sup>33</sup>

The MPD (OPCAT) Act prohibits intentional detrimental action taken against someone for providing or proposing to provide information, documents or for making a disclosure to the

<sup>29</sup> See also Principle 5, Australian Human Rights Commission (2018). *National Principles for Child Safe Organisations*, 13.

<sup>30</sup> National Justice Project. *Trauma-Informed & Culturally Safe Care & Practice Information for Service Providers*, 2. <<https://www.justice.org.au/wp-content/uploads/KYR-Information-for-Service-Providers-Digital.pdf>>.

<sup>31</sup> National Justice Project. *Trauma-Informed & Culturally Safe Care & Practice Information for Service Providers*, 7. <<https://www.justice.org.au/wp-content/uploads/KYR-Information-for-Service-Providers-Digital.pdf>>.

<sup>33</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 20.

ACT NPM.<sup>34</sup> This also applies where intentional detrimental action is taken on the belief that a person has or intends to provide information whether true or false. Intentional detrimental action taken by a detaining authority constitutes misconduct that justifies the taking of disciplinary action.<sup>35</sup>

Detrimental action<sup>36</sup> is defined in the MPD (OPCAT) Act as including action causing, comprising or involving any of the following:

- injury, damage or loss
- change of the conditions of detention
- change to the treatment of a person deprived of their liberty
- intimidation or harassment
- discrimination, disadvantage or adverse treatment, including in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceeding
- unfavourable treatment or proposed unfavourable treatment of a person or relevant organisation<sup>37</sup> in any other way.

The MPD (OPCAT) Act additionally prohibits any civil or criminal liability and action, claim or demand that may be taken or made of or against a person, for providing information, producing a document or thing or making a disclosure to ACT NPM in performance of its mandate.<sup>38</sup>

The ACT NPM will adopt proactive practices to assist in safeguarding against reprisals (see below [Visits](#)). The ACT NPM will also monitor for any risk of reprisals arising from a visit or the provision of information to the ACT NPM.<sup>39</sup>

The ACT NPM will ensure that any confidential information acquired in connection with the visit is fully protected.<sup>40</sup> ACT NPM information is to be stored separately to information gathered through non-NPM functions.<sup>41</sup>

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<sup>33</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 20.

<sup>34</sup> Section 17B (1), MPD (OPCAT) Act

<sup>35</sup> Section 17B (2), MPD (OPCAT) Act

<sup>36</sup> Section 17B (3), MPD (OPCAT) Act

<sup>37</sup> Section 17B (3), MPD (OPCAT) Act. [relevant organisation means a body that has as 1 of its activities – (a) promoting the interests of detainees; or (b) delivering services to detainees]

<sup>38</sup> Section 17A (b), MPD (OPCAT) Act.

<sup>39</sup> OPCAT Article 21 (1); Section 17A (1) (b), (2) and 17B, MPD (OPCAT) Act.

<sup>40</sup> United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [37].

<sup>41</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 20.

## Visits



The key function of NPMs is their visiting function,<sup>42</sup> which the UN SPT notes should be undertaken 'primarily unannounced'.<sup>43</sup> The UN SPT has also explained that 'preventive visiting looks at legal and system features and current practice, including conditions, to identify where the gaps in protection exist and which safeguards require strengthening.'<sup>44</sup>

### Types of visits

The ACT NPM will use a combination of announced, unannounced and semi-announced visits to places of detention.

The advantage of announced visits is that the visiting team can obtain information from the responsible entity beforehand and that the relevant people are present in the place of detention on the day(s) of the visit. Vulnerable people in detention and people needing predictability and structure, may also benefit if they are prepared for the visit.

The use of unannounced visits may have a general preventive effect and provide the ACT NPM with a snapshot of how the place of detention operates. Unannounced visits are carried out in connection with the specific aims of the visit, and could be in response to credible intelligence or reporting that a place of detention has problems of a more serious nature.

A semi-announced visit means the ACT NPM notifies the responsible entity that they expect to visit during a specific period, for instance within a particular month, but does not specify the exact date and time. Semi-announced visits can potentially combine the advantages of announced and unannounced visits.

### Working with other NPMs and monitoring mechanisms



The UN SPT encourages synergies and collaboration between NPMs and other monitoring mechanisms, including the conduct of joint visits, when possible.<sup>45</sup>

The ACT NPM may conduct joint visits with other members of the Australian NPM where there is shared oversight (e.g. the Commonwealth NPM).

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<sup>42</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 6.

<sup>43</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 21.

<sup>44</sup> United Nations Subcommittee for the Prevention of Torture (2008). *First Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT/C/40/2), 6-7 [12].

<sup>45</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 26. See also United Nations Subcommittee for the Prevention of Torture (2013). *Report on the visit made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the purpose of providing advisory assistance to the national preventive mechanism of the Federal Republic of Germany* (CAT/OP/DEU/2), 5 [21].

The ACT NPM may also conduct joint visits, where appropriate, with other monitoring mechanisms (non-NPM).

Any decision to conduct a joint visit with another monitoring mechanism (non-NPM) will be agreed by delegates from all three NPM agencies.

## Planning the visit

ACT NPM visits vary in scale, nature and intensity, depending on the aim of the visit. In each individual case, members will make a specific decision on how the visit is to be undertaken in light of the aim of the visit, the nature of the individual place of detention, and who is detained within the place of detention.

Members will consult each other when planning visits on any known issues or concerns. The Member leading the visit will consider the appropriate skills and/or expertise required by the team undertaking the visit, and may request other Members provide staff or expertise during the visit.

The ACT NPM will assign a focal point for communication and coordination between the ACT NPM and the responsible entity when visiting a place of detention. The ACT NPM will engage in constructive dialogue with the responsible entity regarding the nature of the visit, any requests for information, timeframes, reporting and follow up.<sup>46</sup>

In planning the visit, consideration will be given to the impact that the visit will have on the operation of the place of detention and resourcing implications for both operational and non-operational staff. Members should ensure that any request for information provides the responsible entity with a reasonable amount of time to respond, and that requested information is relevant for the purposes of the visit.

## Identifying matters that require particular care or sensitivity

Members will have due regard to the vulnerability of the people deprived of their liberty. Members will maintain an ongoing dialogue with responsible entities and other investigative entities or official visitors, to understand current matters requiring particular care or sensitivity and will consider their advice. Members will also consider additional pressures which may be impacting responsible entities and people deprived of their liberty.

## Notification to the responsible entity

When undertaking an announced or semi-announced visit, members will notify the responsible entity/entities ahead of the intended visit. The notification will clearly set out:

- the powers under which the visit is occurring
- reference to the published instruments of delegation
- the date or date range of the visit

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<sup>46</sup> United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [38].

- the focus of the visit where relevant (and appropriate)
- information on how the responsible entity can prepare for the visit
- information on what the responsible entity should expect during a visit
- where applicable, a request for information ahead of the visit.
- a contact person who the responsible entity can contact to seek further clarification on the visit.

When undertaking an unannounced visit, members will notify the responsible entity at the time of the visit. The notification will clearly set out:

- the powers under which the visit is occurring and where applicable, clarification on the delegated powers each member of the visiting team holds, with reference to our published instruments of delegation
- the focus of the visit
- information on what the responsible entity should expect during the visit
- a senior contact person who the responsible entity can contact to seek further clarification on the visit.

The visiting team will present the notification to facility management at the time of the visit, and a copy will also be sent by email.

## During the visit

The ACT NPM visit team will:

- treat all people deprived of their liberty, authorities and staff, and fellow visitors with decency and respect
- be clearly identifiable, with the visit team wearing badges or other means of identification
- explain clearly, to people deprived of their liberty and as needed, staff, the objectives and the limitations of the ACT NPM's work<sup>47</sup>
- not take any action or measure which could endanger staff or people deprived of their liberty and consider the advice of the responsible entity on matters of safety and security
- ensure that detaining authorities are informed of the legal prohibition against reprisals
- be factual and unbiased in dealing with both people deprived of their liberty and staff, engaging in a manner that is not coloured by feelings or preconceived opinions.

The ACT NPM will seek to triangulate information received in the course of NPM visits before including it in reports, or note where it is not possible to do so (for example, noting where reports are anecdotal or unable to be substantiated).

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<sup>47</sup> Section 8W, MPD (OPCAT) Act.

The ACT NPM will be timely in notifying the responsible entity of any concerns requiring immediate action identified by the ACT NPM during the visit.

When talking to individuals, the location where individual interviews take place will be carefully chosen to ensure that the content of the interview remains confidential and that the “do no harm” principle is applied, without exception. The interviewers will also indicate that the interviewees can report any reprisals subsequent to the visit to the NPM (providing details about how to do this) and encourage them to do so. If necessary, follow-up visits can be conducted.<sup>48</sup>

Where feasible, the ACT NPM will distribute an information leaflet to interviewees (as well as to other people deprived of liberty generally) to explain the mandate of the mechanism and provide contact information, and that they may report to the mechanism any reprisals.<sup>49</sup>

The ACT NPM will clearly inform the responsible entity that reprisal of any kind is impermissible, will be reported to the relevant authorities and will be followed up by the mechanism. This is done with the clear intention of ensuring that any reprisals are promptly investigated and that perpetrators found guilty of such acts receive appropriate penalties.<sup>50</sup>

## ‘Do no harm’

Members will conduct their visits mindful of the ‘do no harm’ principle<sup>51</sup>, meaning that when monitoring places where people are deprived of their liberty, members will act in a way that avoids causing further harm or distress to persons deprived of their liberty. Even if it means limiting members investigation methods or interactions, members will prioritise the prevention of harm over potential information gathering.

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<sup>48</sup> United Nations Subcommittee for the Prevention of Torture (2019). *Visit to Portugal undertaken from 1 to 10 May 2018: observations and recommendations addressed to the national preventive mechanism* (CAT/OP/PRT/2), 8 [39]; United Nations Subcommittee for the Prevention of Torture (2020). *Visit to Poland undertaken from 8 to 19 July 2018: recommendations and observations addressed to the national preventive mechanism* (CAT/OP/POL/RONPM/1), 8 [42].

<sup>49</sup> United Nations Subcommittee for the Prevention of Torture (2019). *Visit to Costa Rica undertaken from 3 to 14 March 2019: recommendations and observations addressed to the national preventive mechanism* (CAT/OP/CRI/RONPM/1), 37 [7]; United Nations Subcommittee for the Prevention of Torture (2015). *Report on the national preventive mechanism advisory visit to Ecuador made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT/OP/ECU/2), 13 [54].

<sup>50</sup> United Nations Subcommittee for the Prevention of Torture (2019). *Visit to Portugal undertaken from 1 to 10 May 2018: observations and recommendations addressed to the national preventive mechanism* (CAT/OP/PRT/2), 8 [40]; United Nations Subcommittee for the Prevention of Torture (2020). *Visit to Poland undertaken from 8 to 19 July 2018: recommendations and observations addressed to the national preventive mechanism* (CAT/OP/POL/RONPM/1), 8 [43].

<sup>51</sup> see also Association for the Prevention of Torture (2004). *Monitoring places of detention: A practical guide*, 29.

## Reports



The UN SPT notes that NPMs should produce reports following their visits as well as any other form of report which the NPM deems necessary (e.g. thematic reports).<sup>52</sup>

When appropriate, reports should contain recommendations addressed to the relevant authorities. The recommendations should take account of the relevant norms of the United Nations in the field of the prevention of torture and other ill-treatment, including the comments and recommendations of the UN SPT.<sup>53</sup>

Recommendations should be:

- well-founded (based on international, regional and national norms and practices)
- preventive (identifying and addressing systematic gaps and practices, including root causes)
- feasible and practicable, and
- focused, precise, and non-complex.<sup>54</sup>

When preparing a report, members will provide an opportunity for the other ACT NPM member agencies to review draft suggestions and recommendations. This is particularly important for areas where responsibility may overlap with non-NPM functions. The ACT NPM Coordinator will also be given an opportunity to review draft reports and may provide feedback.

### Procedural fairness

When preparing a report intended for publication, distribution or tabling, members must:

- provide a draft to the relevant responsible entity/entities to provide comment within a reasonable timeframe<sup>55</sup>
- consider any comments received from the responsible entity/entities<sup>56</sup>
- not publish, distribute or table a report that contains an adverse comment in relation to an entity, unless the NPM has given the entity a reasonable opportunity to respond, orally or in writing, to the proposed comment.<sup>57</sup>

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<sup>52</sup> Section 8Q, MPD (OPCAT) Act; United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [36]; United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 26, 32.

<sup>53</sup> United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [36].

<sup>54</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 27.

<sup>55</sup> Section 8Q (2), (3) (a) and Section 8R (1) and (2), MPD (OPCAT) Act

<sup>56</sup> Section 8Q (3) (b), MPD (OPCAT) Act

<sup>57</sup> Section 8V, MPD (OPCAT) Act

In practice, the ACT NPM will write to the relevant Director-General of the responsible entity or Chief Police Officer providing an opportunity to comment. The reasonable timeframe will depend on the complexity and nature of the report.

When sending a draft report to a responsible entity for response, members will ensure the draft report is sent in an electronic format that cannot be edited (e.g. PDF). The accompanying letter will also set out the usual process for procedural fairness:

- the due date for the response
- the responsible entity is responsible for coordinating a whole-of-government response with relevant directorates, unless the ACT NPM deems that circumstances exist for the ACT NPM to provide the report (or relevant parts of the report) directly to another public sector entity, in which case this should be noted in letters to responsible entity and the public sector entity.
- the requested feedback is on apparent factual errors or omissions
- the responsible entity (or other public sector entity) may provide a response that is to be included as an attachment to the report
- if the ACT NPM deems it appropriate, the response is to identify whether a responsible entity (or other public sector entity) accepts or doesn't accept the recommendations, the reasons for this; and include comment on any work completed or being progressed to implement the recommendations if accepted
- any response provided by the responsible entity (or other public sector entity) may result in changes to the report, and where changes are not made, relevant sections will be annexed to the report at the time of publication to ensure the wider community is able to see both the ACT NPM's views and the responsible entities views.

Members may also need to provide the draft or part of the draft to another public sector entity that is not the responsible entity. Generally, members will ensure the responsible entity has first been provided with a copy of the report.

Members may adopt a different approach to procedural fairness, provided that approach still complies with the requirements of the MPD (OPCAT) Act.

Following procedural fairness, the ACT NPM may edit the draft report to reflect feedback to ensure the report is factual and balanced. A second round of procedural fairness is only required if new issues have been raised that the responsible entity has not had an opportunity to comment on.

## Non-public sector entity

Members may provide the draft or part of the draft to an entity that is a non-public sector entity but must first ensure the responsible entity/entities aforementioned, have been provided an opportunity to comment on the draft.<sup>58</sup>

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<sup>58</sup> Section 8Q (4), (5), MPD (OPCAT) Act

## Publishing or tabling a report

ACT NPM visit reports will generally be published, however, there are times when it may not be appropriate to publish a report. For example, where published reports might adversely impact on the wellbeing or safety of vulnerable people deprived of their liberty (see [‘Do no harm’](#)).

Where the ACT NPM views non-publication as a protective factor, it will consider other means of communicating its findings with the wider public. For example, issuing a public statement or incorporating the visit findings into a thematic report that considers multiple facilities.

ACT NPM visit reports will generally not be tabled in the Legislative Assembly. However, it may be appropriate to table a report where the report highlights repeated issues or where the responsible entity has been non-responsive or hostile to the recommendations. It may also be appropriate where there are multiple responsible entities. For example, where a report follows the continuum of deprivation of liberty between different detaining authorities such as between police custody and custodial custody.

Approval from the heads of each ACT NPM member agency is required to table a report to the Legislative Assembly. When publishing or tabling a report, members will ensure the response provided by the responsible entity/entities is published/tabled as an annex to the report.

## Submissions



The UN SPT encourages NPMs to make proposals and observations to the relevant State authorities regarding existing and draft policy or legislation which it considers to be relevant to its mandate.<sup>59</sup>

In carrying out its preventive mandate, the NPM does not only address problems observed in relation to specific institutions but considers the justice system as a whole and the local conditions that influence its functioning in practice.<sup>60</sup>

The ACT NPM may be alerted to or become aware of consultations by the ACT Government, Legislative Assembly or another authority, on proposed or existing law and policy changes. Where a member considers it relevant for the ACT NPM to contribute a submission to any consultation process, they will raise the matter with the other members for discussion.

Where members agree to making a written submission, the principal drafter (determined according to capacity and expertise) will work with the ACT NPM Coordinator to ensure the submission complements any other submissions the member bodies intend to make in their non-OPCAT functions.

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<sup>59</sup> OPCAT Article 19 (c); United Nations Subcommittee for the Prevention of Torture (2010). *Guidelines on national preventive mechanisms* (CAT/OP/12/5), [36].

<sup>60</sup> United Nations Subcommittee on Prevention of Torture (2015) *Eighth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* CAT/C/54/2, [83].

The submission will undergo a review process, and a delegate from each ACT NPM member agency must approve and sign the submission.

Any published submission will be placed on the ACT NPM website and members are encouraged to circulate and promote the submission using their own networks and communications channels (see [Publications](#)).

## Education

In addition to visits, members may engage with responsible entities through information requests, interviews, consultations and other means appropriate to understanding the treatment of and conditions for people deprived of their liberty in places of detention.

The ACT NPM may also provide presentations, training and other information resources to responsible entities. It may also engage with responsible entities about potential proposals and observations the ACT NPM may seek to make concerning existing or draft legislation that relates to people deprived of their liberty or places of detention.

## Working with investigative entities

Investigative entities, as defined under the MPD (OPCAT) Act, have the power to require the production of documents or the answering of questions. These include for example, the Chief Police Officer for the ACT, the ACT Human Rights Commission, the ACT Ombudsman, the ACT Custodial Inspector and the Integrity Commissioner.<sup>61</sup>

Official Visitors provide independent oversight of services for people in government institutions and community facilities who are dependent on service providers in certain environments, including places of detention. These include environments such as corrections, mental health, disability and places where children and young people live. They are appointed under the [Official Visitor Act 2012](#).

## Referral of matters

Members may refer a matter, together with any relevant documents, information or other things in the ACT NPM's possession or control, to an investigative entity or an official visitor, if:

- the member reasonably believes that a matter raised by, or during the exercise of its functions can be more appropriately dealt with by another investigative entity or an official visitor.<sup>62</sup>
- A referral must not include identifying information about an individual unless the individual has given consent; or the member is satisfied that referring the matter is necessary and reasonable in the public interest.<sup>63</sup>

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<sup>61</sup> Section 8B, MPD (OPCAT) Act.

<sup>62</sup> Section 8U (1) and (2), MPD (OPCAT) Act.

<sup>63</sup> Section 8U (3), MPD (OPCAT) Act; OPCAT Article 21 (2).

Members note that while the MPD (OPCAT) Act permits sharing of protected information where it is 'necessary and reasonable', this runs contrary to Article 21 of the OPCAT which prioritises the confidentiality of the information.<sup>64</sup> Any decision to share information under s8U (3)(b) of the MPD (OPCAT) Act will be agreed by delegates from all three NPM agencies.

The ACT NPM may enter into arrangements with other investigative entities or official visitors about the referral of matters.<sup>65</sup>

## Working with the Australian NPM Coordinator

In July 2018, the Australian Government nominated the Office of the Commonwealth Ombudsman as the Australian NPM Coordinator. The Australian NPM Coordinator is tasked with coordinating the multi-body Australian NPM, comprising the Commonwealth, state and territory oversight bodies nominated by their governments as NPMs.

### Information sharing

Members will support the Australian NPM Coordinator by:

- collaborating to support Australian NPM activities in line with the agreed upon Australian NPM Terms of Reference, Strategic Plan and other policies for joint work
- communicating updates to the Australian NPM Coordinator on work of the ACT NPM.

### Annual reporting

Members will support the Australian NPM Coordinator by:

- collaborating with the Australian NPM Coordinator on Annual reporting of the Australian NPM.

## Working with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

OPCAT creates a two-part system to support preventing torture and other ill treatment in places of detention. NPMs are the national part of this system, while the international part is the UN SPT. The UN SPT conducts visits to places of detention in each country that is party to OPCAT and provides advice and assistance to the countries which are party to OPCAT as well as to their NPMs.

Members will support the UN SPT by:

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<sup>64</sup> See also United Nations Subcommittee for the Prevention of Torture (2016). *Compilation of advice provided by the Subcommittee in response to requests from national preventive mechanisms*; Annex to (CAT/C/57/4), 19 [10].

<sup>65</sup> Section 8U (5), MPD (OPCAT) Act.

- collaborating to support UN SPT activities in line with the agreed upon Australian NPM Terms of Reference, Strategic Plan and other policies for joint work
- communicating updates to the UN SPT on work of ACT NPM where relevant –e.g. contributions to regional meetings
- seeking formal advice from the UN SPT on certain matters pertaining to the OPCAT mandate
- collaborating with the Australian NPM Coordinator on any formal reporting of the Australian NPM to the UN SPT.

## Working with civil society



The UN SPT has noted that communication and collaboration between NPMs and civil society organisations is crucial in torture prevention and has recommended the establishment of sustainable lines of communication with such organisations.<sup>66</sup> Similarly, the reference to the Paris Principles<sup>67</sup> in Article 18 of OPCAT indicates that NPMs are to maintain good relationships with other bodies, including non-governmental organisations.

The UN SPT has generally noted that the daily presence of civil society organisations and associations of relatives in places of deprivation of liberty makes them a valuable source of information that the NPM could use to strategically plan its programme of visits and to determine the extent to which its previous recommendations have been implemented.<sup>68</sup> The UN SPT has however advised that from the point of view of maintaining impartiality, NPMs should always be careful to preserve their independence when engaging with civil society.<sup>69</sup>

### Civil Society Advisory Group

Recognising the importance of proactive, continuous civil society engagement in the delivery of the ACT NPM's functions, the ACT NPM is committed to establishing a Civil Society Advisory Group (Advisory Group). Additional funding is required for the effective operation and support of such an advisory group.

<sup>66</sup> United Nations Subcommittee for the Prevention of Torture (2020). *Visit to the United Kingdom of Great Britain and Northern Ireland undertaken from 8 to 19 September 2019: recommendations and observations addressed to the national preventive mechanism (CAT/OP/GBR/ROPNM/1)*, 14 [73].

<sup>67</sup> United Nations General Assembly (1993). *Principles relating to the Status of National Institutions (The Paris Principles)*.

<sup>68</sup> United Nations Subcommittee for the Prevention of Torture (2023). *Visit to Argentina undertaken from 19 to 30 April 2022: recommendations and observations addressed to the State party (CAT/OP/ARG/ROSP/1)*, 4 [16].

<sup>69</sup> United Nations Office of the High Commissioner for Human Rights (2018). *Preventing Torture: The Role of National Preventive Mechanisms*, 16.

The role of the Advisory Group will be to informally report to and provide expert advice and guidance to the ACT NPM in relation to its functions and responsibilities under OPCAT. It will seek to cover as wide a range as possible of places of deprivation of liberty as defined in legislation and the OPCAT. The Advisory Group will also assist in promoting wider civil society engagement through the dissemination of information to stakeholder populations.

The ACT NPM will develop a Terms of Reference to facilitate the establishment and operation of the Advisory Group.

### Other modes of engagement

In addition to the Advisory Group, members may engage with civil society through targeted requests for written submissions, organising roundtables and/or attending other public events, distributing reports and other written work via distributions lists and social media.

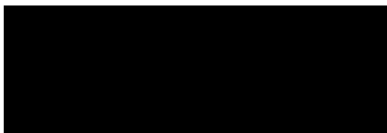
The ACT NPM may also provide presentations, training and other information resources to civil society.

### Review of the SOP

The SOP will be reviewed by the ACT NPM on an annual basis, or more frequently as required, to ensure continuing relevance and ongoing improvement.

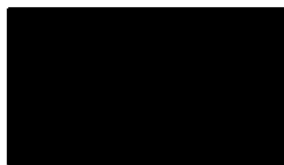
Date accepted: 15 September 2025

Signed



Dr Penelope Mathew

President and Human Rights  
Commissioner



Rebecca Minty

ACT Inspector of Custodial Services



Iain Anderson

ACT Ombudsman