



Australian Human Rights Commission
OPCAT in Australia
GPO Box 5218
SYDNEY NSW 2001
humanrights.commissioner@humanrights.gov.au

Dear Ed

RE: OPCAT in Australia - Consultation Paper

I refer to the May 2017 Consultation Paper on this important development for Australia, the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Thank you for the opportunity to provide comment.

Background

The Northern Territory Anti-Discrimination Commission (NT ADC) administers the NT *Anti-Discrimination Act*. We are a very small office charged with promoting the recognition of equality of opportunity in the Northern Territory (NT).

The Community Visitor Program (CVP) is an independent monitoring and advocacy service located in the Anti-Discrimination Commission and furthers the ADC objectives.

The CVP protects the rights of people receiving treatment or care under the legislation that governs the provision of mental health and forensic disability services in the Northern Territory, in particular involuntary admissions and those people detained under Supreme Court Supervision orders. It has also monitored the mandatory detention facilities for those detained under Alcohol Mandatory Treatment in the Northern Territory. The CVP is regarded as an inspection body; how we perform that role and key features we believe are crucial to its success will be set out below.

Preliminary Issue

It is our view that the most appropriate body to be the National Preventative Mechanism (NPM), the domestic Australian entity to network responsible for inspections is the Australian Human Rights Commission (AHRC).

This is on the basis that the scheme is meant to be preventative rather than complaints driven. The NPM is to co-ordinate the very important inspection and

monitoring of the detention of the communities most vulnerable groups. These are groups the AHRC has established relationships with.

This approach is reflected in other jurisdictions such as New Zealand, where the NPM is the New Zealand Human Rights Commission.

Questions for discussion

CVP

As stated above the CVP currently visits (until 31 August 2017 when AMT is dismantled) three types of facilities; Mental Health facilities where involuntary patients are detained, secure residential disability facilities where supervised persons are detained under Part IIA of the NT *Criminal Code*, and Alcohol Mandatory Treatment Centres where affected persons on mandatory treatment orders are held.

The CVP's statutory power to visit, inspect, monitor etc. is set out in three pieces of legislation *Mental Health and Related Services Act* (MHRSA) the *Disability Services Act* (DSA) and *Alcohol Mandatory Treatment Act* (AMT).

In broad terms, the CVP has legislated monitoring, inspection, inquiry, advocacy and complaint handling functions. The role of the CVP is conducted through four approaches:

- Regular visits by Community Visitors to places of detention to resolve issues and help with complaints from people held in services / facilities;
- 6-monthly monitoring and inspections of facilities carried out by Community Visitors Panels, comprising of health professional, lawyer and community member;
- Regular reports to the operational managers of services after each visit (both Community Visitors and Panels) and six monthly reports on seclusion, restraint registers etc.; and
- Annual report tabled in Parliament (previous annual reports - <https://cvp.nt.gov.au/resources/publications>)

Features of CVP that contribute to its value as an inspection and oversight body

- **Independence**

The NT ADC auspices for the sake of independence but also to ensure the monitoring is done from a human rights perspective, the Community Visitor Program. It ensures that the monitoring, reporting and recommendations made are frank and fearless.

- **Culture and Values of the Program**

- Empowerment – beside the client
- Respect – objective and professional
- Courage – frank and honest
- Independent – advocate for client, support services (professional distance)
- Integrity – accountable and open

This includes the overarching aim to resolve individual client matters at the lowest possible level.

- **Staffing**

Staff have been recruited for their expertise in the areas monitored, such as mental health. Further, as the program has expanded, we have provided relevant training and upskilling from experts in behaviour management for those with cognitive impairment, youth mental health and alcohol treatment programs etc.

Staff are from diverse professional backgrounds, social workers, psychologists etc.

- **Statutory Role**

CVP has very clear statutory powers and role including power to visit at any time, unfettered access to facilities and documents. Mandated cooperation and assistance. Six monthly inspection of seclusion registers, physical restraint registers, monitoring restrictive practices etc.

Visitors also have a role in making recommendations on quality of care, complaints processes and policies etc.

- **Community Visitor Panel**

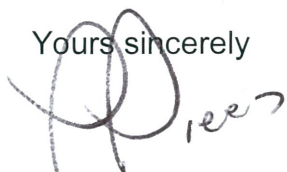
An invaluable feature is also the Community Visitor Panels that visit each six months, their role is also legislated and is strategic oversight, informed by the day to day work of the Community Visitors.

Implementation

In the NT there are few independent over sight mechanisms and the timely implementation of OPCAT may facilitate this occurring.

Also the inspection monitoring programs need to be appropriately funded to ensure weekly visits to facilities where people detained maybe detained for short periods of time.

Yours sincerely



Sally Sievers

Anti-Discrimination Commissioner

Northern Territory Anti-Discrimination Commission

22/06/2017

