The case for a National Preventive Mechanism to implement The Optional Protocol to the Convention Against Torture (OPCAT)

Background

Queensland Advocacy for Inclusion (QAI) is an independent, community-based advocacy organisation and community legal service dedicated to upholding the human rights of people with disability.

We hold grave concerns for the human rights and physical and psychological safety of people with disability who are detained in Queensland Government-funded institutions.

People with disability are over-represented in all places of detention and experience higher rates of violence in these settings.

In 2017, the Australian Government ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Under the OPCAT, Australia must establish independent National Preventive Mechanisms — systems for regular visits to places where people are deprived of their liberty, to monitor their treatment and make recommendations to improve their treatment and change laws to better protect them.

Current proposals by the Australian and Queensland Governments will deliver less than the minimum required to fulfil their obligations under the OPCAT.

QAI's recommendations

QAI calls on the Queensland and Australian Governments to fulfil their OPCAT obligations and establish National Preventive Mechanisms (NPM) consistent with the following principles:

1. A National Preventive Mechanism should monitor and report on all places of detention in Queensland

2. The Australian Human Rights Commission and the Queensland Human Rights Commission should be appointed to lead and coordinate the National Preventive Mechanisms for Australia and Queensland respectively

3. The National Preventive Mechanisms should provide for representation from, and formal collaborations with, Civil Society Organisations

4. The National Preventive Mechanisms should be designed to ensure OPCAT monitoring activities are informed and guided by people with lived experience of detention

5. Providing culturally- and disability-inclusive information to people in detention about their rights and available complaints mechanisms should be a key priority of the National Preventive Mechanisms

6. The Australian and Queensland Governments should pass legislation to give full effect to the key provisions of the Convention Against Torture and OPCAT around Australia and in Queensland.