

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
SUPPLEMENTARY BUDGET ESTIMATES 2024-2025

Attorney-General's Department

SBE24-094 - OPCAT Disability Royal Commission

Senator Lidia Thorpe asked the following question on 15 November 2024:

In July this year the Government released its response to the Disability Royal Commission's Final Report. With respect to the Commission's recommendations on OPCAT, several state and territory governments stated that OPCAT implementation was 'subject to the resolution of sufficient and ongoing funding from the Commonwealth and the resolution of implementation issues, including the Commonwealth leading work in consultation with states and territories to reach agreement on the definition and scope of places of detention'.

1. Will the Government provide the state and territory governments with ongoing funding? If not, what is the justification for this decision and how does the Government intend to overcome this almost decade long impasse?
2. What are the definition and scoping concerns that the state and territory governments have raised?
3. What advice has the Government been provided by the UN SPT on the matter of what constitutes a place of deprivation of liberty and the scope of NPM?

The response to the senator's question is as follows:

The Australian Government made a one-off funding offer to all states and territories to support their National Preventive Mechanism (NPM) implementation, which expired on 30 June 2024. Each offer was proportionate to the number of primary places of detention and approximate cost for travel to places of detention outside capital cities. The offers were accepted by the Australian Capital Territory and Tasmania.

Australia has nominated six out of nine NPMs required to fulfil its OPCAT obligations. The government is continuing to work with New South Wales, Queensland and Victoria on the nomination of their respective NPMs as soon as possible.

On 4 July 2024, the United Nations Subcommittee on Prevention of Torture publicly released advice on the definition of 'places of deprivation of liberty' and intended scope of NPMs through *General comment No.1 (2024) on article 4 of the Optional Protocol (places of deprivation of liberty)* available on the Office of the United Nations High Commissioner for Human Rights (OHCHR) website: www.ohchr.org/en/documents/general-comments-and-recommendations/catopgc1-general-comment-no-1-2024-article-4.