

31 August 2022

Subcommittee on Prevention of Torture

8-14 Avenue de la Paix, 1211 Geneve 10, Switzerland

Delivered by email to: ohchr-opcat@un.org

Dear Subcommittee

Subcommittee on Prevention of Torture visit to Australia 2022

We are writing in relation to the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment's (SPT) upcoming visit to Australia pursuant to Article 11(1)(a) of the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT).

People with Disability Australia (PWDA) is a leading disability rights advocacy and representative organisation and the only Australian national cross-disability organisation representing the interests of people with all kinds of disability. We are a not-for-profit and non-government organisation, and our membership is comprised of people with disability and organisations primarily constituted by people with disability.

Places of detention

When visiting Australia, we urge the SPT to inspect 'secondary' places of detention, particularly disability group homes and aged care homes. Australia's recent disability and aged care royal commissions have revealed pervasive abuse in these settings, along with a worrying lack of effective oversight.¹

¹ See Disability Royal Commission, *Report on Public Hearing 3: The Experience of Living in a Group Home for People with Disability* (Report, 2019), available at <https://disability.royalcommission.gov.au/publications/report-public-hearing-3-experience-living->

Given that the Australian Government has prioritised ‘primary places of detention’ in its implementation of OPCAT, it could be some time before Australia’s National Preventive Mechanisms conduct inspections of disability group homes and aged care homes.² As such, we believe it is important that the SPT seize upon the opportunity to inspect these settings as part of its visit.

We also urge the SPT to visit mental health units in Australia. As noted by the Disability Royal Commission, restrictive practices, such as chemical restraint, are common in these settings and constitute a form of violence.³ In addition to high rates of restrictive practices, the recent Royal Commission into Victoria’s Mental Health System revealed the disturbing prevalence of gender-based violence in mental health settings.⁴

Request to meet

We kindly request to meet with the SPT both in advance of and during its visit to Australia. Our advocates work directly with people with disability who live in closed settings, and we would like to share our local knowledge about these places and the risks faced by people who live there.

We also request that PWDA is included in any civil society meetings scheduled prior to or during the SPT’s visit to Australia and advised of any further opportunities to provide written submissions.

[group-home-people-disability](https://agedcare.royalcommission.gov.au/publications/final-report) and Royal Commission into Aged Care Quality and Safety, *Final Report: Care, Dignity and Respect* (Final Report, 2021), available at <https://agedcare.royalcommission.gov.au/publications/final-report>.

² Commonwealth Ombudsman, *Developments in OPCAT Implementation in Australia, and the Importance of the Preventive Mandate* (Presentation, 29-30 March 2022), available at https://www.ombudsman.gov.au/__data/assets/pdf_file/0024/114882/Presentation-Future-Justice-and-Corrections-Summit-Sydney-March-2022.pdf.

³ Disability Royal Commission, *Restrictive Practices* (Issues Paper, 2020) 4, available at <https://disability.royalcommission.gov.au/system/files/2022-03/Issues%20paper%20-%20Restrictive%20practices.pdf>.

⁴ Royal Commission into Victoria’s Mental Health System, *Volume 1: A New Approach to Mental Health and Wellbeing in Victoria* (Final Report, 2021) 590 and 632, available at https://finalreport.rcvmhs.vic.gov.au/wp-content/uploads/2021/02/RCVMHS_FinalReport_Vol1_Accessible.pdf.

Should you wish to discuss this letter further, please contact Giancarlo De Vera, Senior Manager of Policy on +61 413 135 731 or via email at giancarlo@pwd.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Zagarella', with a stylized, cursive script.

Sebastian Zagarella
Chief Executive Officer
People with Disability Australia