



7 December 2022

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane QLD 4000

By email: lasc@parliament.qld.gov.au

Dear Committee

Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022

Thank you for the opportunity to provide feedback on the Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022 (the **Bill**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on issues relating to the implementation of the Optional Protocol to the Convention Against Torture (the **OPCAT**).

About ADA Australia

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

Review of the Bill

ADA welcomes the introduction of measures that will actively progress Queensland's implementation of Australia's obligations under OPCAT.

We acknowledge and support the objectives of the Bill, as set out in clause 2. These objectives support the objectives of OPCAT, namely to facilitate visits by the visiting body to all places of

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ADA Australia acknowledges the Traditional Custodians of this land and pays respect to Elders, past and present.

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detention, including provision of access to information in support of the visiting body's ability to fulfil its mandate.

It is critical that all places of detention are recognised in the Bill, and that the drafting adequately reflects this to ensure that there is no objection by any place of detention to permitting full access to the visiting body.

It is therefore *critical* that proposed section 4 of the Bill is amended to expressly include residential aged care facilities and secure dementia units in the meaning of a 'place of detention'.

ADA is concerned that should the definition not explicitly refer to aged care facilities, there are significant risks around practical implications and misunderstanding with respect to the visiting body's authority pursuant to OPCAT to be provided with full and unrestricted access.

This misunderstanding will obstruct the visiting body's ability to complete its mandate, and adversely impact upon Australia's compliance with our ratified obligations.

Further, in the case of aged care facilities that are public entities, non-compliance may also expose the entity to implications associated with the *Human Rights Act 2019*.

We urge the Committee to amend the proposed section accordingly.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer on [REDACTED] or via [REDACTED].

Yours faithfully

[REDACTED]

Geoff Rowe

Chief Executive Officer

