

Question on Notice
No. 1206
Asked on 27 October 2022

Dr A MacMahon asked Premier and Minister for the Olympics (Hon. A Palaszczuk)—

QUESTION:

With reference to the decision to refuse access for the United Nations Subcommittee on the Prevention of Torture (SPT) to inspect Queensland's secure mental health facilities this month—

Will the Premier

(a) detail the (i) barriers to access and (ii) advice provided on how to support the subcommittee visit referred to in the Premier's advice to the House on 26 October (iii) the information included in the notice given to the SPT; (b) advise how it was determined that the SPT's visit would 'adversely affect the patient's treatment and care'; and (c) advise why the government did not take steps to address any legislative barriers to SPT inspections prior to the October visit, after Australia signed the Optional Protocol on the Convention Against Torture, which includes mental health facilities in the SPT's remit for inspections, in 2009?

ANSWER:

The Queensland Government supports the principles of the Optional Protocol of the Convention Against Torture (OPCAT) and welcomed the United Nations Subcommittee on the Prevention of Torture's (UN Subcommittee) recent visit to Australia.

I am advised that all Queensland Government agencies with responsibility for places of detention cooperated with the UN Subcommittee to facilitate its visit to the extent possible under existing legislation, policies and procedures.

Under the *Mental Health Act 2016*, visitor access to inpatient units of Authorised Mental Health Services is restricted to certain categories of permitted visitors to protect the safety and privacy of people with severe mental illness. I am advised that none of the categories of permitted visitors could be relied upon to allow the UN Subcommittee entry to inpatient units of Authorised Mental Health Services. This means that there was no lawful avenue for Queensland Health to facilitate physical access to inpatient units by the UN Subcommittee.

The UN Subcommittee was advised of this restriction prior to its visit to Australia. The UN Subcommittee was also provided with information as to how Queensland Health was able to support the visit, including by arranging interviews with patients and staff and providing information to the UN Subcommittee on request.

I am advised that there was no determination that the UN Subcommittee's visit would adversely affect a patient's treatment or care. The restriction on physical access to Authorised Mental Health Services was an operational necessity due to the legislative barriers referred to above.

The Commonwealth Government ratified OPCAT on 21 December 2017 and it came into effect in Australia on 20 January 2018. At the time of ratification, the Commonwealth

Government did not introduce legislation to implement OPCAT obligations across Australia.

My Government intends to introduce legislation this year to remove barriers to access to ensure the UN Subcommittee is provided with access to facilities in Queensland for future visits.