

Our ref: EDOCS 2015-01837(P1)

16 May 2016

Ms Megan Mitchell
National Children's Commissioner
By email: kids@humanrights.gov.au

Dear Ms Mitchell

Invitation to make a written submission and attend a roundtable on the Optional Protocol to the Convention against Torture (OPCAT) in the context of Youth Justice Detention Centres

I refer to your office's email of 30 March and a subsequent roundtable meeting held on 4 May 2016, attended by Assistant Ombudsman Peter Cantwell on my behalf. Thank you for the opportunity to participate in the roundtable.

In considering the questions raised at the roundtable and the material included in your email, I would like to confirm the advice provided by Mr Cantwell.

Nationally, Ombudsman from Australia and New Zealand have been discussing oversight arrangements for OPCAT for some years, including circumstances for both adults and children. The Office of the Queensland Ombudsman has a very broad jurisdiction over the majority of public institutions in which OPCAT monitoring might take place, subject to its adoption by the Australian Government and confirmation of agreed oversight arrangements with the Queensland Government.

The decision of the Queensland Government in 2014 to abolish the then Commission for Children and Young People and Child Guardian (CCYPCG) confirmed this office's role in overseeing complaints about child safety matters. This includes oversight of youth detention centres and adult correctional facilities where children may be detained. This office has a long standing oversight role in adult correctional facilities, including 'private' prisons contracted to the State. This role has recently been expanded to include the State's two youth detention centres.

Given the extensive powers available to me under the *Ombudsman Act 2001*, my officers are able to investigate and review any actions or decisions taken by State authorities, including in their regulatory roles for non-State entities. If necessary, these powers include the power to compel witnesses and the production of documents. Investigations may be undertaken on complaint, including from children, or on my own initiative.

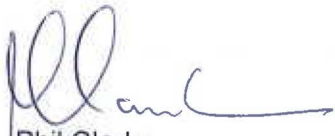
In association with the Public Guardian, responsible for the child guardian function since 2014, which includes the community visitor program, my office is currently receiving complaints and investigating decisions and actions in relation to children in detention. These matters are not limited to the detention of children, but to their education, health care and any other matter associated with their detention. Community visitors are also

able to make complaints on behalf of children in detention as are their families or advocacy groups.

Ombudsman officers are well aware of the United Nations conventions applicable to detention regimes and rely on them when necessary in the conduct of investigations.

Should OPCAT be ratified by the Australian Government, I look forward to engaging in discussions about an appropriate oversight regime in Queensland. I believe that the current jurisdiction and powers on my office place it very well to contribute to the effective oversight of places of detention for children and adults and to do so efficiently and effectively as part of a national framework.

Yours sincerely



Phil Clarke
Queensland Ombudsman