

# OPCAT Implementation Bill 2021

Submission to the Office of Strategic Legislation and  
Policy, Department of Justice

**15 September 2021**

## Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.<sup>1</sup>

The ALA office is located on the land of the Gadigal of the Eora Nation.

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<sup>1</sup> [www.lawyersalliance.com.au](http://www.lawyersalliance.com.au).

1. The ALA welcomes the opportunity to provide this submission to the Department of Justice regarding the consultation draft of the OPCAT Implementation Bill 2021 ('the Bill').
2. Clause 5(3)(a) – this clause should make specific reference to youth detention centres. Accordingly, the clause should be amended to say “... detention centre, including youth detention centre.”
3. Clause 15 deals with ensuring access to detainees. The ALA submits that it should be an offence for the person in charge of the place of detention and staff or any person providing services in the place of detention to hinder, obstruct the mechanism from conducting an interview and an offence when they read, copy or remove correspondence of the detainee.
4. Clause 17 deals with referral of evidence of breach of duty. The ALA submits that paragraph (b) should be deleted. As it currently reads, clause 17(b) provides that referral is only done if the “evidence is of sufficient force to justify”. The ALA submits that this phrase is nebulous and does not appear to be defined or referred to in other statutes.
5. Clause 20 provides an opportunity to be heard if a report contains adverse or derogatory comments. The ALA submits that the clause should include a time limit for response to 1 month or 3 months in case of the Department, to reduce the possibility of unnecessary delay.
6. The ALA submits that clause 25(2) is unclear and needs to be redrafted.
7. Clause 28 gives the Minister power to enter into arrangements with Commonwealth to facilitate exercise by Subcommittee of its functions and lists the matters. The ALA submits that the clause should include the ‘norms of the United Nations’ as referred to in clause 9(1)(h).
8. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the OPCAT Implementation Bill 2021. The ALA is available to provide further advice regarding the Bill should the Department consider that useful.



**Rowena Macdonald**

**Tasmanian President**

**Australian Lawyers Alliance**