

**Legislative Council
Hansard**

Tuesday 14 April 2026

The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

MOTION

Ombudsman Tasmania Annual Report 2024-25 - Noting

[12.05am]

Ms WEBB (Nelson) - Mr. President, I move -

- (1) That the Legislative Council notes the Ombudsman Tasmania Annual Report 2024-25, particularly statements made regarding;
 - (a) Previous recommendations made by the Ombudsman that the Tasmanian National Preventive Mechanism (NPM) be established as a specialised institution separate from the Ombudsman, and that the person appointed as Tasmanian NPM concurrently serve as Custodial Inspector, which is also to be separated from the Ombudsman, have not been acted upon;
 - (b) The need for the proposed new joint Tasmanian NPM-Custodial Inspector entity to come under the administrative umbrella of a department other than the Department of Justice, given that so many of the facilities which are inspected are also under Justice's purview.
- (2) That the Legislative Council further notes that:
- (3) *The OPCAT Implementation Act 2021*, which was passed by the Tasmanian Parliament and received Royal Assent on 29 November 2021, establishes an NPM for Tasmania as a new, permanent monitoring body to undertake regular, unannounced inspections of places of detention in order to strengthen protections against torture and ill treatment;
 - (a) On 1 December 2023, the Tasmanian NPM released its first implementation project report Preventing torture and ill-treatment in Tasmania, which includes the results of extensive community and expert consultation to establish the Tasmanian NPM, with a focus on custody, detention, and secure mental health settings;
 - (b) On 26 November 2024, the Tasmanian NPM released its second, supplementary implementation project report focusing on the Tasmanian NPM's mandate in community-based aged residential care and disability support services.
 - (c) The combined Tasmanian NPM 2023 and 2024 Implementation Reports provide 12 overarching recommendations to successfully

establish an independent and accountable office that is most suitable for Tasmania and best placed to prevent torture and ill-treatment, designed to complement and work with existing oversight bodies, engage actively with civil society, and ensure appropriate Parliamentary scrutiny of its activities;

- (d) On the 19 November 2024 the Legislative Council passed a motion which called for the 12 implementation recommendations to be accepted in full.
- (4) That the Legislative Council also notes the following statement by the outgoing Ombudsman Mr Richard Connock in the 2024-25 Annual Report: *"Unfortunately, the report, and the 2024 Supplementary Implementation Report, have not been formally responded to though both have been tabled in parliament. In addition, whilst government provided generous funding for the implementation phase of the NPM, it has not provided sufficient ongoing funding for the NPM to perform its functions. This is disappointing, and means that Tasmania will not meet its international obligations."*
- (5) And that the *Legislative* Council calls on the Tasmanian government to:
 - (a) Provide a formal response in the Parliament to both the Preventing torture and ill-treatment in Tasmania 2023 Report and the 2024 Supplementary implementation report;
 - (b) Commit to the full funding and implementation of all 12 overarching TNPM recommendations and provide an implementation timetable; and
 - (c) Report back to the Legislative Council prior the delivery of the 2026-27 State Budget.

I rise to speak to motion number six, standing in my name regarding the Ombudsman Tasmania annual report 2024-25. Specifically, the statements made in that report pertaining to the capacity of the Tasmanian National Preventive Mechanism, to fulfil its statutory obligations.

Although the Ombudsman's annual report canvasses a range of important and noteworthy matters, it is specifically its reference to the TNPM which is the focus of this motion. At the outset, Mr President, I wish to emphasise that members will hear multiple mentions of recommendations not being implemented, and the lack of resourcing being provided to this particular statutory entity. However, this is not more of the same, when it comes to the unfortunate litany we hear so often of similar complaints. I recognise there are many independent reports commissioned by government, which are either partially or completely ignored, and never implemented. We know there are a range of important statutory entities and other organisations who are currently under resourced under this government.

However, there's a significant point here which I ask members to keep in mind during this debate, that it is rare that those other instances of inaction, and underfunding, result in Tasmania being non-compliant with a binding international treaty. That is the case with the concerns raised regarding the government's treatment of the Tasmanian National Preventive Mechanism, as I will detail during my contribution today.

In order to address the points raised by this motion, we need to return to the beginning. Mr President. We need to briefly revisit the debate surrounding the *OPCAT Implementation Bill 2021*.

For members who were not in this Chamber at that time, it may be useful to be familiar with the background to provide context for our current debate. As summarised by clause 2A of the motion before us, the *OPCAT Implementation Act 2021*, established an NPM for Tasmania as a new permanent monitoring body to undertake regular, unannounced, inspections of places of detention, or where people are deprived of their liberty, in order to strengthen protections against torture and ill treatment.

We need to take a step even further back than that. The term OPCAT is an acronym for the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. More frequently and easily referred to as OPCAT. The prohibition against torture and other cruel, inhuman or degrading ill treatment is a long-standing obligation under international law. Further, this prohibition exists as one of the few recognised non-derogable obligations. Which means it is an absolute obligation, applicable to all states in all circumstances, to all people. Responding to atrocities undertaken before and during, World War II, core legal instruments, such as the 1948 UN Universal Declaration on Human Rights, and the Geneva Conventions of 1949 embedded this absolute prohibition against torture and ill treatment.

The following decades saw ongoing calls internationally for national states to do more to address ongoing use of torture by non-compliance states, and to develop agreed compliance and accountability mechanisms. Eventually, that effort resulted in the binding 1984 UN Convention Against Torture, UNCAT.

Australia became a signatory to UNCAT in 1985 and subsequently ratified the convention in 1989. It's pertinent to this debate to note that UNCAT established a UN monitoring body, the Committee Against Torture. Whose role is to periodically review each signatory states compliance with the convention. But the work on developing rigorous compliance models did not stop there. Work subsequently began on a supplementary optional protocol to the UNCAT. To provide for deliberate and equally accountable preventative monitoring to complement the UNCATs periodic reporting. Which brings us to OPCAT.

This optional protocol established a subcommittee of the UN Committee against Torture. The OPCAT Subcommittee on the Prevention of Torture has the specific brief of regularly visiting state parties to examine their places of detention, while also requiring each state party to establish national bodies to undertake its own regular preventative visits to all places of detention. That domestic entity is the National Preventive Mechanism.

The UN General Assembly adopted OPCAT on the 18 December 2002. It came into force on the 22 June 2006. On 17 December 2017, the Australian Government ratified OPCAT. By doing so the Commonwealth committed the entire nation to fulfilling the protocol's specific obligations. The deadline for implementation was January 2022.

Reflecting the nature of our National Federation, and as pointed out by the government's second reading speech when this Chamber debated the OPCAT Implementation Bill in 2021, it's the responsibility of all state and territory governments to ensure our OPCAT obligations are fulfilled, not just the Commonwealth. To its credit, Tasmania was the first state to progress the creation of our national preventive mechanism, the Tasmanian National Preventive Mechanism (TNPM), when developing and debating the establishment legislation in 2021; but

unfortunately, that momentum, credible at the beginning, has not been maintained since.

Before I leave this broad overview of the historic steps which has resulted in the *OPCAT Implementation Act* on Tasmania's statute books, I asked members to keep in the forefront of their mind during this debate that specific, two-pronged approach of OPCAT that I've just summarised: the first being the International Subcommittee on the Prevention of Torture with the mandate to periodically visit all state signatories and inspect detention facilities and practices; the second being the requirement for domestic independent bodies to also be established to undertake preventive inspections of the signatory state detention facilities and practices. They are not either/or obligations; by ratifying OPCAT, the Australian Government is obligated to ensure all states and territories' facilitate the first and then deliver on the second of those requirements.

That summary provides the context behind why Tasmania has its *OPCAT Implementation Act 2021*. Although Australia is the actual signatory to the convention and the protocol, due to jurisdictional complexities arising from our federation, where states, territories and the Commonwealth have different areas of responsibility and control over facilities where people are deprived of their liberty, all those different jurisdictions need to establish a mechanism by which to comply with OPCAT.

Hence, nationally, the Australian NPM comprises a network of NPMs set up by each state and territory government and also the Commonwealth government. This structural detail is also a salient point within the context of this debate. The Commonwealth Ombudsman, who has the responsibility of coordinating the Australian NPM framework, and select activities undertaken by that framework, is responsible for preparing an annual report for the federal government and also the international Subcommittee on Prevention of Torture (SPT).

As part of the national NPM network, inevitably Tasmania is going to feature in such national reports, which then go to the international body. It's worth noting that during the public consultation on the 2021 bill and the subsequent parliamentary debate, a number of civil society representatives and MPs, both in this chamber and in the other place, emphasise the importance of proper resourcing of the new Tasmanian National Preventive Mechanism being established.

There were numerous warnings at the time regarding the need for both an appropriate model for the TNPM as well as adequate resourcing. Stakeholders rightly highlighted the fact that the Tasmanian Ombudsman already had multiple weighty hats that it wore, and pointed to the option of a different location and model for the TNPM; but no matter whether a single person or multi-statutory officers assumed the statutory responsibilities of the TNPM, the crucial consideration was the need for adequate resourcing to be provided to ensure those obligations could be fulfilled fully and effectively.

As the honourable member for Mersey stated during that debate on 11 November 2021 in this place, and I hope the member doesn't mind me quoting from his contribution:

However, changes such as these cannot occur without significant resourcing. The administration of the bill will require adequate support to ensure financial and operational autonomy. Legislation such as this always poses a risk it will not receive enough funding to perform its most crucial operations, particularly in an area as complex as this. I wish to stress that it is our responsibility to ensure this legislation is not relegated to the background.

I agreed with the member for Mersey at the time and I agree with him still now. Other

stakeholders, including the Tasmanian Law Reform Institute, TasCOSS and the Tasmanian Institute of Law Enforcement Studies, also reiterated the need for adequate resourcing.

I do wish to pay credit where credit is due: following the act's commencement, the government did provide funding of \$425,000 for the Tasmanian NPM Implementation Project, a sound and sensible move. It's worth noting that following the commencement of the act, the Tasmanian Ombudsman was appointed as the TNPM by the Governor, while the implementation project undertook the research and analysis to confirm a viable and fit-for-purpose model.

Noting the range of concerns raised regarding the NPM model best suited to Tasmania, the project started from ground zero, without a predetermined model in mind. The project was tasked with consulting and researching to identify the most suitable option and making recommendations accordingly in relation to governance, strategy and ongoing operational budget.

The 12-month project commenced in September 2022, and for those who may wish to know more about that process, I direct you to the 2023 implementation report of the TNPM released in December of that year. I was going to point to it here, it's somewhere - but perhaps it's a prop, so maybe I won't. It was released in December 2023, and it details the extensive engagement processes undertaken with experts, stakeholders and public consultation. It's my understanding that both this NPM establishment project and its report were a national first, one which saw Tasmania lead the way for human rights protection in this area. The 2023 implementation report presented eight key recommendations which I will discuss in more detail later. However, I will highlight the following statement contained in the report's foreword provided by former ombudsman, Mr Richard Connock, and I quote from that foreword:

A key outcome of this project is that the Tasmanian NPM must stand on its own, led by a person that does not concurrently serve as Ombudsman. Vital to the success of the Tasmanian NPM will be ensuring that it is appropriately funded so that it can establish a multidisciplinary office that operates independently to establish trust.

The TNPM implementation project identified that the most suitable model for Tasmania, which is also best suited for the state to comply with our OPCAT obligations, is a specialised, distinct and standalone institution and one that requires separation from the role of the Tasmanian Ombudsman. However, the report also details the need and opportunity to embed a multidisciplinary approach to ensure it can draw on the expertise of both the Custodial Inspector and the Commissioner for Children and Young People via a joint-office governance model that leverages the TNPM's authority to delegate its functions while maintaining the necessary autonomy and independence: so far so good.

Then in 2024, the TNPM released its supplementary report to the government. This supplementary report provided the final component of the project and presented a deep dive into the implementation of the NPM in relation to health and social care settings and an update on the implementation of the Tasmanian National Preventive Mechanism. A detailed and proposed operational budget for the financial years of 2025-26 through to 2028-29 was also provided.

The report also presented additional recommendations to the original eight delivered by the 2023 report, bringing the total to 12: a very thorough body of work, reflective of the commitment by those involved in the project to Tasmania complying with its OPCAT

obligations, but from there it goes downhill somewhat. From here on, we start to see the Ombudsman, wearing the TNPM hat, report the lack of formal response from the government to the earlier report and its recommendations. For example, and I quote on page 16 of the supplementary report released in November 2024:

In note, on 5 June 2024 I received correspondence from the Attorney-General, the Honourable Guy Barnett MP, acknowledging my 2023 report. However, as of 30 June 2024, I have not received a response to its recommendations, nor have I been provided with the resources needed to fulfil my functions.

That statement is deeply alarming. Here we have an independent statutory officer, required under the act to report back on any progress or response to recommendations made, formally advising that Tasmania is risking being non-compliant with our international human rights obligations due to the government failing to respond to recommendations detailing adequate resources required.

It's a fair assumption to make that a responsive and responsible government would have acted in a timely manner to resolve the serious matters raised in formal statutory advice in the form of this report; but no, instead we see outgoing ombudsman, Richard Connock, reiterate his warning in the opening statement of the *Ombudsman Tasmania Annual Report 2024-25*, as detailed in clause 3 of the motion that we're debating today, which I will quote now for the benefit of *Hansard*:

Unfortunately, the report and the 2024 Supplementary Implementation Report have not been formally responded to, though both have been tabled in Parliament. In addition, whilst government provided generous funding for the implementation phase of the NPM, it has not provided sufficient ongoing funding for the NPM to perform its functions. This is disappointing and means that Tasmania will not meet its international obligations.

Incoming Ombudsman, Dr Grant Davies, who was also appointed as the TNPM, reiterates later in the annual report:

It is one of OPCAT's strict requirements that NPMS must be operationally and financially independent.

This Annual Report 2024-25 was tabled in this Chamber on 11 November 2025 12 months after the supplementary TNPM implementation report, which warned of exactly the same serious ramifications should the TNPM not be adequately resourced. These serious ramifications include being non-compliant on an international convention contrary to the Commonwealth ratification.

Further, this also means the state is not compliant with its own *OPCAT Implementation Act* if the TNPM is unable unable to fulfil its statutory functions and obligations. Which is unconscionable and shameful.

What is even more alarming though, is that this 2024-25 annual report was tabled by the ombudsman exactly a year following the affirmative vote passed in this Chamber on 19 November 2024 for the government to implement all 12 recommendations from the two TNPM implementation reports.

Ombudsman Dr Davies also specifically states on page 17 of the annual report this and I quote:

I am encouraged by the Legislative Council of the Tasmanian Parliament passing a motion on 19 November 2024 which called for the implementation recommendations to be accepted in full. It is essential that the implementation recommendations are considered and a response is provided, notably because they intersect with parallel reforms underway to establish a new Commissioner for Children and Young People.

We are all aware the state's independent statutory officers do not lightly or frivolously cite the votes of parliament in their formal reports. I'm not going to try to speculate or infer motivation on behalf of those independent statutory officers. However, it is very purposeful and pointed reminder to the government that it has left undone crucially important work.

That failure by the government has very real ramifications for the TNPM being more than just yet another hat worn by the Ombudsman, for our compliance with OPCAT conventions and, crucially, for the human rights of the hundreds of Tasmanians who have been detained by the state and deprived of their liberty.

The Ombudsman Tasmania is merely doing its job as an independent statutory entity of reporting to the parliament without fear or favour that crucial recommendations it has been specifically tasked to go away and develop to ensure compliance with the *OPCAT Act* have been ignored for years, and that a parliamentary vote calling for their implementation has also been ignored. What more does it take to break this inertia? We should well ask ourselves.

Clause 2E of the motion before us states this Chamber previously passed a related motion on this matter, which I've just been mentioning. It's worth pointing out, particularly for members who have joined this Chamber since the November 2024 vote, what the government actually said during that debate and while I will restrain myself from reflecting on the nature of that contribution, I will summarise the pertinent facts of that contribution by government. At the time, the government stated that it did not support the 2024 motion because it was continuing and I quote:

To work with the TPM to ensure we are fulfilling our requirements under OPCAT.

However, the government did not detail exactly how those OPCAT requirements were being met, particularly given its refusal to engage on the 12 specific recommendations from the two TNPM implementation reports. The government's response also verbled the former Ombudsman Richard Connick, by quoting his acknowledgement in the 2023 TNPM report that the funding he requested for the 2022-23 and 23-24 budgets reflected his requests at the time and that the Attorney General, the Honourable Guy Barnett, as responsible minister, had responded directly to Mr Connick acknowledging the report and requests for funding.

Yet the Government deliberately failed to add that former ombudsman Connick had also said in the 2024 TNPM report, which is also the subject of that Chamber debate, and I quote this:

I note that on the 5th of June 2024 I received correspondence from the Attorney General, the Honourable Guy Barnett, acknowledging my 2023 report. However, as of 30 June 2024, I have not received a response to its recommendations, nor have I been provided with the resources needed to

fulfil my functions.

The government knew when it came to this place and it deliberately left out any reference to that pertinent formal statement. The government's 2024 response on this significant matter was nothing but a shameful and very telling smoke and mirrors response at the time. Smoke and mirrors to its core. Reflecting a government squirming out of being held to a specific account regarding the implementation of specific recommendations and the adoption of a detailed budget proposal across four financial years.

In 2024, the government also tried to take credit for and infer that in fact it was addressing in some vague manner those of the 12 recommendations which relate to the interaction between the TNPM and the Commissioner for Children and Young People, including co-location. In light of both implementation of the Commission of Inquiry recommendations which relate to OPCAT and the youth justice inspections and related matters.

However, as we know, a year after that debate, the Ombudsman's annual report last November again formally drew to the parliament's attention there remained outstanding work to be done due to the government's failure to address the TPM recommendations, which were becoming increasingly urgent due to their intersection with the parallel reforms underway to establish a new Children and Young People's Commissioner.

That is an example of being called out in this annual report for failures. However, one of the more shocking aspects of the government's statement during this Chamber's 2024 debate was the following, and I quote this from the government;

While I acknowledge the members ongoing interest in this topic, this is not the appropriate forum to discuss the implementation report of the Tasmanian National Preventative Mechanism. Given the report and the recommendations relate to the detention of persons, it is important that it is carefully considered by government in consultation with progress and learnings in other jurisdictions.

Let's just absorb that for a moment, apparently parliament is not an appropriate forum in which to discuss the formal public reports issued by an independent statutory entity which has a specific mandate to independently review and report on the state's treatment of fellow Tasmanians deprived of their liberty, and which we had passed legislation to establish in order to fulfil that oversight function.

Yet apparently, according to the government, this Chamber is not an appropriate forum to then discuss whether the government, which represents the state, is responding adequately to that statutory entity's recommendations. I mean, come on, what an embarrassing try on from the government. We better not have similar embarrassing try-ons in the government's response today.

I said at the time and raising again here now to put the government formally on notice, do not go down that path. Do not trot out any similar line about this not being the role of this Chamber to discuss these matters and hold the government to account for them. As I've already stated, the Ombudsman has formally raised specific concerns regarding the languishing and ignored TNPM funding requests and implementation recommendations in its statutory required annual report tabled in this place.

Therefore, this parliament, this Chamber, has an unequivocal right and responsibility to examine the content of such annual reports, whether the government likes it or not. Hopefully, that puts to bed any future nonsense and we can expect the government today to address the

substance of this motion instead of trotting out similar trite lines.

It's sad and disturbing that I have to take such pre-emptive steps to say this in my contribution, but unfortunately, the government has form on trying to shut down parliamentary scrutiny of the TNPM and the implementation of our *OPCAT Act*. Members may recall that during the debate on the OPCAT Implementation Bill in 2021, we attempted to amend that bill to require the TNPM to report annually back to parliament, just as other statutory officers do.

The Attorney-General at the time refused to accept that amendment, arguing it would interfere with the TNPM's independence, which in turn risked non-compliance with our international obligations under OPCAT. The nerve, the utter nerve. What a load of crock, quite frankly. So we're all very clear here, I will reiterate what the Ombudsman's annual report of 2024-25 states on page 16;

It is one of OPCAT's strict requirements that NPMs must be operationally and financially independent.

Apparently, on the one hand, the government asserts that should the TNPM report to parliament, and the parliament dares to discuss matters relating to the TNPM, we risk contravening and becoming noncompliant with our international OPCAT obligations. On the other hand, by continuing to starve the TNPM of the identified resources required for it to operate autonomously and independently, as strictly required by OPCAT, the state, the government is ensuring we are in fact, in breach of our international OPCAT obligations. Gobsmaeking hypocrisy from this government on this matter. In fact, it's gaslighting this Chamber and the parliament to make the sorts of assertions that they've made here in the past, so I warn the government, do not try that on again here today. Instead, it's incumbent on the government that they focus on the urgent need for the state to ensure we are fully compliant with our OPCAT obligations.

This brings us to the crux of the matter. As I alluded to at the outset, this is more than just another example of the government failing to implement, or deliberately turning a blind eye to, formal recommendations made by independent entities. We are all aware that it can be a frustrating aspect of our Westminster-style democracy that the government of the day can generally do as it likes with advice received. However, these TNPM recommendations are not run-of-the-mill advice received regarding potential policy options. These recommendations were specifically designed to ensure the state implements the TNPM mechanisms as provided for under the *OPCAT Implementation Act 2021*, the framework designed to ensure Tasmania and, therefore, also Australia, is complying fully and consistently with our international obligations under OPCAT.

The government invested \$425,000 into the TNPM implementation project in order to receive these recommendations, to now simply ignore them and, by ignoring them, risking very real noncompliance with a human rights international treaty. There are serious and equally real ramifications of this inaction and noncompliance. I briefly outlined earlier the relationship of the state NPMs with the Commonwealth NPM and the fact that the Tasmanian NPM reports to the federal ombudsman in its capacity as the Australian NPM coordinator, and I wish now to briefly raise the TNPM's 2025 annual report to the Australian NPM. The formal report from the Tasmanian NPM to the Australian NPM states,

This was a year of mixed fortunes for the office. The year began and ended with notable milestones, but overall progress to operationalise was slowed by resourcing and planning delays.

It goes on to summarise the sequence of the two NPM implementation reports of 2023 and 2024 and specifically mentions that, although Mr Connick had engaged with the Attorney-General and the Justice Department at the completion of the implementation project in 2023, and I quote, 'Within the reporting period, the government did not provide a formal response to the recommendations.' And further:

With respect to non-custodial settings, because of resource constraints the NPM office was unable to commence examinations on its own initiative. This is principally because over the reporting period only one staff member, Mr Huber, was able to be employed and at least two staff are required for an examination to occur.

Let's just consider that statement for a minute. Section 3 of the *OPCAT Implementation Act 2021* defines two specific purposes for the act. The first being:

3(a) a national preventive mechanism to be appointed and maintained to fulfil the mandate set out in Part IV of the Optional Protocol. I will not take up the Chamber's time by reading out OPCAT Part IV, however, I'll draw attention to Article 19, which stipulates:

NPMs are to be provided as a minimum power:

(a) To regularly examine the treatment of persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment.

Yet, here we see the TNPM having to report to its federal equivalent representing the Commonwealth, which is the state signatory to OPCAT, that it has been effectively denied the capacity to fulfil this specific stipulated requirement under the convention due to inadequate resourcing.

The fact that other TNPM activities have been able to occur, as reported both in the annual report to the parliament and the Australian NPM, appears largely to be down to funding received from the Association for the Prevention of Torture, (APT), an international entity based in Geneva dedicated to assisting local, regional, and international delivery of OPCAT. However, it's clearly urgent that the Tasmanian government must address the long-term financial independence of the TNPM as a matter of urgency.

Article 10, subsection 3 of OPCAT states:

(3) The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

I acknowledge that as the national state entity which ratified the convention, there is a role for the Australian Government to formally assist in resourcing all state and territory NPMs required to ensure compliance with OPCAT. That, however, does not let the Tasmanian government off the hook from its share of the ongoing resourcing commitment. Since 2021, Tasmania has had to negotiate a sufficient and workable arrangement with the Commonwealth, and I note that it was a Liberal federal government at the time we established the TNPM.

The fact of the matter is, it is arguable we are currently noncompliant with OPCAT due to the failure to noncomply with the specific article, the convention, including this particular article 18. I find that utterly disgraceful and shameful. The government was warned in 2021, as we passed that bill through this place, that an empty shell entity would not cut it when it comes to fulfilling our obligations. The government cannot be surprised to now find we are risking being in breach of OPCAT, if we're not already. We do not need to hear more excuses from the government, we need to hear a detailed plan. I cannot stress enough that this is not just about delivering on words on a page, whether in an act or a ratified international treaty. This has a real impact on the lives of many of our fellow Tasmanians who have been deprived of their liberty.

Noting that there are some shared responsibilities with the Office of the Custodial Inspector, the Commissioner for Children and Young People and also now the Disability Commissioner - hence the TNPM's co-location and delegation recommendations - the areas identified as falling within the TNPM's jurisdiction include: adult custodial centres, youth detention facilities, police and court custody facilities, mental health settings and hospitals and community-based health and social care services, including disability support, aged residential care, education settings and out-of-home care facilities.

OPCAT requires visits to these types of facilities to be regular and, in practice, the expectation is the NPM visits comprise a mix of drop-in visits, thematic visits, in-depth inspections and follow-up assessments. These required regular visits are to give oversight of the treatment of Tasmanians deprived of their liberty in any of these places of detention and to strengthen, if necessary, protections against torture and other cruel, inhuman or degrading treatment or punishment.

The TNPM implementation plan has identified there are actually over 200 facilities it is responsible for visiting and reviewing the treatment of people held therein in a manner that deprives them of their liberty and freedom of movement that we all take for granted. For example, I point members to the 2024 TNPM implementation report, which details 69 aged residential care and 369 disability support settings in the state where deprivation of liberty is likely occurring and which, therefore, fall within the TNPM's jurisdiction. At the time of that report, 47.3 per cent of these facilities were in the north and north-west region of the state and the remaining 52.7 per cent in the south. Further, the south had 32 aged-care institutions and 199 disability service organisations. The north and north-west had 37 aged-care facilities and 170 disability service organisations.

These are the people whose treatment, when detained, for whatever health or other reasons, the TNPM is meant to be regularly examining to ensure their human rights, specifically their inalienable right to not be subject to torture or other cruel and inhuman practices, are being protected. These are the people, along with other Tasmanians in the additional detention settings I mentioned, the TNPM is currently struggling to deliver on its statutory responsibilities in respect to.

Many vulnerable and often marginalised Tasmanians are potentially being put in unnecessary risk due to the resourcing restrictions inflicted upon the entity that is meant to be working on their behalf in this context, very real and serious potential consequences of the government's irresponsible disinterest and inertia.

The Tasmanian government has a track record of hollowing out and starving our statutory entities, hobbling them from being able to meet the statutory obligations. In this case, Tasmania risks being noncompliant with an international human rights treaty and that can no longer be

ignored.

I now draw the attention to point 4 of the motion before us, which seeks to provide a methodology by which the government can address this deeply concerning situation and get Tasmania back on track and compliant once more with our OPCAT obligations. Clause (4)(a) before us could be addressed immediately, by the government today providing its formal response to the combined 12 recommendations made across the TNPM implementation reports of 2023 and 2024. That's pretty straightforward, one would think. A response 18 months late is better than no response at all.

Then the government must also detail how it will ensure effective implementation of those recommendations and meet the identified resourcing requirements to enable the TNPM to fulfil its mandated functions and responsibilities under the *OPCAT Implementation Act 2021*. That would address subclauses (4)(b) and (4)(c) of the motion before us.

There is no excuse for the government to claim it has insufficient time on this matter. It has had over two years since the initial TNPM 2023 report to identify how it will implement the recommendations and resource the TNPM appropriately. Similarly, this motion has been on the books since last November, so the government has now had six months to prepare accordingly to respond. So to conclude, I wish to reiterate article 10 [actually article 18] subclause 3 of OPCAT, which is this:

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

But while the TNPM continues to formally point out that it does not have the necessary resources for its functioning, we are at very real risk of being non-compliant with and contravening our obligations under OPCAT. You can't get more serious than that. During my contribution five years ago, on the second reading debate in this place on the OPCAT Implementation Bill on 11 November, I stated this:

We have a responsibility to ensure we are implementing OPCAT not only in words, but also in spirit and intent.

Two ignored implementation reports later, it's clear the government has done little more than just legislate the necessary words. The government's original interest and momentum behind that 2021 bill appears to have spluttered, run out of steam, and ground to a juddering halt. This is a deeply alarming situation, and one which this parliament, in its crucial role of holding the executive to account, cannot allow to fester unchecked.

The Rockliff government's apathy towards the two detailed and comprehensive TNPM implementation reports, 2023 and 2024, and its inertia when it comes to respecting affirmative votes of this chamber speaks volumes. This apathy and inertia discredits Tasmania on both the national and international stage. It signals fundamental disrespect towards the parliament, and a shocking disregard for the human rights and welfare of our fellow Tasmanians who have been deprived by the state of their liberty for whatever reason.

Ironically, it is this very disregard for the risk of human rights abuses when the state deprives liberty which OPCAT is intended to challenge. The protracted failure by this government to formally respond to the TNPM *Implementation Report's* recommendations or fund the TNPM to ensure it can fulfil its statutory obligations risks Tasmania being non-compliant with the international protocol.

I hope this motion now sees the application of Newton's first law: that is, the breaking of inertia. Consistent with Newton's law, it is this parliament's role to apply the necessary external force, to start movement or change direction in order to overcome an object's resistance, which, to be very clear, in this case is the government changing its state of motion. The initial movements required are those detailed in clause (4) of this motion. As previously stated, there is no good excuse for the government to fail to deliver on (4)(a) in its contribution to this debate today. I hope we do receive that formal and overdue response to the 2023 and 2024 TPM implementation reports. Further, any meaningful formal response to those two reports would have to address the implementation of recommendations, as detailed in (4)(b) of our motion. A respectful government response which is comprehensive, detailed, inclusive of a required implementation plan and funding commitments, could also see (4)(c) of this motion addressed here today.

To reiterate: this parliament has a responsibility to ensure the next annual report of the Tasmanian NPM that it submits to the Commonwealth Ombudsman and the Australian NPM Coordinator does not have to report once again that its activities were limited due to resourcing and planning delays. Is untenable and shameful for this state and this government to place a statutory entity in that position. It is unacceptable for Tasmania to continue risking being non-compliant with our international human rights obligations under OPCAT, and so on that note, I urge members to support this motion.

[12.58 p.m.]

Ms WEBB (Nelson) - Thank you, Mr President. It can be a short one. I very much appreciate the contributions from the member for Elwick and member for Hobart and the support of the motion: very clear statements of support there and I thank you for them. The government of course, has come with nothing. They're not able to say why they haven't provided a formal response. They haven't been able to tell us exactly when they will provide a formal response; a fig leaf of an excuse relating to the establishment of the new Commissioner for Children and Young People Office is just that, it's a figment of their imagination that that's a reason not to provide a formal response.

They could and should have done it well before now, and they should be committing to full funding and implementing all 12 overarching recommendations. If this motion was to pass this place today, I do expect that they will adhere to the reporting back to the Legislative Council prior to the delivery of the 2026-27 state budget on progress of those two things: formal response and full funding of the recommendations. On that, I commend the motion to the House and hope that it will be supported.

Motion agreed to.