

Who are NPM members and staff?

1

NPMs are usually made up of both members and staff. Members are appointed following a selection process or procedure (either in parliament, through a selection commission, or by governmental appointment). Depending on the NPM model, the number of members could vary between one (for example, [ombuds institutions](#)) and in some cases reaches more than a dozen members (as is the case among some new [specialised institutions](#)).

Often, the law establishing the NPM includes the composition of members and the professional experience and skills required. As stated in [article 18.2 of the OPCAT](#) “The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge.” Staff are then recruited, reallocated or seconded by members, depending on the NPM model.

Members are appointed for a defined term of office (which may or may not be renewable), while staff are permanent and represent a guarantee of institutional sustainability and stability. On the other hand, Staff are recruited (depending on the NPM model), once the NPM is established, to support members in implementing the preventive mandate or for administrative purposes. In both cases, the NPM should have the authority to choose and employ its own staff based on requirements and criteria it alone determines. Sufficient human resources permit the NPM to be functionally independent.

There are some specificities related to the composition of NPMs and the distinction between the role of members and staff. For example, staff carry out the NPM’s mandate in cases where ombuds institutions are designated as NPMs. In contrast, in some new specialised institutions, the mandate is carried out primarily by the members. Some NPMs also appoint a secretary general from among their members, while for others this position is part of the secretariat (which may help to preserve institutional memory).

Members work either full-time or part-time, according to the law and/or the internal rules of the NPM and taking into consideration the scope of mandate. Both full time and part-time members should be paid adequately for their work. This should be considered while drafting the NPM’s [budget](#).

Both members and staff are bound by the principles of confidentiality of personal information, do no harm, and non-discrimination. Therefore, they should have the same immunities against reprisals or any potential obstacles to the conduct of their preventive work.

What professional expertise is required for NPM members and staff?

2

For an NPM to be effective, the members and staff must have relevant expertise. In addition, the NPM, as an institution, should gather, collectively, the required variety and balance of different fields of professional knowledge and practical experience that enable it to effectively perform its mandate.

Some professional backgrounds are particularly relevant to NPM work, including:

- Lawyers.
- Medical doctors (including general practitioners, forensic specialists and psychiatrists).
- Psychologists.
- Human rights specialists (particularly specialised in detention issues).
- Social workers.
- Anthropologists.
- Persons with prior expertise in the field of in policing, migration, administration of justice, and places of detention.
- Persons with particular experience in working with groups in situations of vulnerability.
- The entire institution, with its members and staff, should have, at least, legal and medical expertise.

The members' expertise can be supplemented by a pool of experts to accompany their work.

As the [SPT guidelines](#) state, “members of the NPM should collectively have the expertise and experience necessary for its effective functioning [...] the NPM should ensure that its staff have between them the diversity of background, capabilities and professional knowledge necessary to enable it to properly fulfil its NPM mandate. This should include, inter alia, relevant legal and health-care expertise.”

What are the other key considerations for the designation of members and staff of an NPM?

3

According to article 18.2 of the OPCAT, states parties “shall strive for a gender balance and adequate representation of ethnic and minority groups in the country.”

The gender balance and representation of different ethnic and socio-cultural groups within the NPM may increase its capacity to understand the specific needs of groups in situations of vulnerability in detention and, consequently, to make appropriate recommendations. Depending on the NPM model, this balance should be fulfilled and complemented in the designation of both members and staff.

Members should also have a diverse understanding of specific groups in detention (such as socio-cultural and ethnic minorities) and be culturally sensitive.

Which skills and other requirements should NPM members and staff have?

Methodological Skills:

- Good listener: NPM members and staff conduct interviews with detainees and personnel during their visits to places of deprivation of liberty. In order to create a relationship of trust and be informed about the conditions and treatment in places of deprivation of liberty, NPM members and staff should listen carefully to what is said (and left unsaid) and pay attention to details.
- Observation skills: NPM members and staff should observe, listen, smell and feel everything around them in places of deprivation of liberty. This will enable them to have a sound analysis of the situation, detect any possible irregularities or good practice and make appropriate [recommendations](#). Observation is an essential skill to be able to triangulate information.
- Writing skills: The members and staff of NPMs are required to write concise and analytical reports (including [visit](#), [thematic](#) and [annual reports](#)), which contain findings and clear recommendations. Good reports are not only the institutional memory of an NPM but also an effective tool for dialogue with state authorities and for the sensitization of the public on issues related to detention.
- Analytical skills: The NPM members and staff gather a large amount of information (documents, interview data, statistics, etc.). It is important to verify and analyze this data before reaching conclusions and drafting recommendations. The NPM team should be able to process the information obtained in an objective manner and translate it into specific and accurate recommendations.

Personal Characteristics:

- Communications skills: NPM members communicate with senior state authorities, personnel, detainees, families of detainees and, in some cases, victims of torture and other forms of ill-treatment. They should be professional, empathetic and capable of building a rapport with these and other types of people.
- Group dynamics and team players: NPM members and staff should act as a team. NPMs are usually created by a group of people with diverse expertise and backgrounds who have not previously worked together. Nevertheless, they should foster positive group dynamics, which will enable them to work together in developing a strategy, identifying priorities and modalities of work, conducting visits, writing reports and making recommendations as a team.
- Respect and sensitivity: visits to places of deprivation of liberty affect the daily working pattern of each place. Therefore, members and staff should be respectful and mindful of the rules and regulations of each place they visit. During visits, members and staff of an NPM should also show respect to the living spaces of detainees (such as cells).
- Consideration of vulnerabilities: NPM members and staff should be able to detect situations of vulnerability, give them special attention and assess whether or not specific measures are required to uphold the human rights of

those at risk.

- Availability and flexibility: being a member or staff of an NPM is a demanding job. It requires the flexibility and availability to conduct visits (including sometimes) at night and during weekends. It also requires going on long visits (one to two weeks in some cases) and in areas or regions far from home and sometimes in difficult conditions (including in relation to both accommodation and transportation). Members and staff of NPMs should consider these unusual work circumstances and deal with them with flexibility and a sense of responsibility.
- Integrity to the institution: each member or staff of the NPM represents the NPM and its priorities and methodology of work. Members and staff should focus on the implementation of the NPM objectives, not those of other institutions or originations -e.g. NGOs, government departments etc.
- Human rights-based approach: there are a number of specific treaties and guidelines on the rights of persons deprived of liberty and the rights of persons in situation of vulnerability. NPM members and staff should adopt a comprehensive human rights-based approach, aiming to protect the human rights of all those deprived of liberty, without discrimination, and to uphold the inherent dignity of all as the benchmark for evaluating conditions and treatment of persons deprived of liberty.

What do independence and impartiality mean for NPM members and staff?

5

Article 18.1 of the OPCAT requires state parties to guarantee the functional independence of the institution and ensure that the institution is composed of independent personnel.

Members and staff of NPMs need to be personally and institutionally independent from state authorities or other institutions. That means that members and staff should serve in their personal capacity and only in the interest of the NPM. Consequently, NPM members should not act on behalf of any other stakeholders be it governmental or non-governmental institutions.

The NPM members and staff should be capable in practice to undertake their responsibilities without interference from state authorities or any other stakeholders. The NPM should set its own priorities, independent of the political agenda.

The NPM should not conduct activities or include individuals who occupy positions (or are on short-term leave from positions) that might be incompatible with the NPM mandate. Examples of such positions might include: the executive branch of government and roles in the criminal justice system or law enforcement. In other words, members should not be in a position where they end up overseeing institutions they have worked for or been a part of.

Members and staff should also be free from any personal allegiances with political figures or law enforcement personnel.

Members and staff must be personally independent and perceived as such. Therefore, if a member is acting in an impartial manner but is perceived as biased, for reasons of political affiliation or for a position occupied, this could seriously compromise the work of the NPM.

Members and staff should be protected from any state intervention or external interference in their work and enjoy security of tenure. This will help to guarantee the independence of their actions without consideration or fear of losing their jobs. They should also be protected during and after the end of their mandate against any reprisals relating to actions taken in the course of their NPM work.

In this regard, the [SPT guidelines](#) state that “the State should ensure the independence of the NPM by not appointing to it members who hold positions which could raise questions of conflicts of interest [...] Members of NPMs should likewise ensure that they do not hold or acquire positions which raise questions of conflicts of interest.”

Which situations could represent a conflict of interest?

6

NPM members and staff should be independent from their previous functions. For example, a lawyer cannot follow the case of /or interview one of his or her clients during a prison visit. Likewise, an NGO representative should not provide information to his or her former NGO related to the case of a detainee of interest. Assigning NPM members to work on a full-time basis and ensuring they do not undertake any other professional activity can help mitigate this risk. In addition, it is good practice to include a provision in the law establishing the NPM relating to situations of conflict of interest.

In some cases, members or staff may have social or friendship ties with, for example, penitentiary authorities or detainees. In such case, the member or staff is in a temporary situation of conflict of interest and should declare it, as well as refrain from related interviews or from participating in a specific visit.

The expertise of members and staff with previous professional experience in places of deprivation of liberty may help the NPM to better understand the detention system. However, it could put this person, as a former colleague, in a delicate position and make him or her unable to give constructive and objective feedback. In this case, members or staff could contribute to the preparation of a visit to a place where they have worked in the past, without participating in the visit itself.

NPMs resort sometimes to [external experts](#) – with previous experience and knowledge in the field of law enforcement or administration of justice – for advice or to accompany visits to places of detention, without being part of the NPM composition, in order to avoid situations of conflict of interest.

NPM work is operational and demanding. Consequently, members should be paid in accordance with their level of expertise and responsibility. This enables members to work exclusively for the NPM and help in avoiding situations of conflict of interest, where a member or staff of an NPM keeps his or her original job during his or her tenure.

Can seconded state officials or civil servants work for NPMs?

7

NPM staff should be institutionally and personally independent from state authorities. Although it is not an ideal situation, in some cases (particularly for budgetary reasons) civil servants are seconded to work for the NPM to provide support and to reduce costs. In this situation, the staff should be entirely dedicated to NPM work, and should not report to their ministry or department of origin. Confidentiality of information acquired in their capacity as NPM staff should be respected during and after their tenure.

A guarantee of the independence of seconded staff could be to ensure that secondments are only long-term. During the secondment, the staff should only be accountable to the NPM. Furthermore, the seconded member of staff should be selected following a clear, transparent, merit-based process and at the discretion of NPM members.

In any case, leadership and decision-making positions in the NPM should not be held by seconded staff.

Should NPM members and staff have the same privileges and guarantees?

8

Because of the work they do and the information to which they have access, both members and staff should have immunity from any threats or influence related to their work.

Staff conducting visits to places of detention should equally enjoy guarantees against intimidation and attempts to hinder their work.