

Briefing

Date due to MO: 12 December 2023 **Action required by:** 13 December 2023

Security level: IN CONFIDENCE **Health Report number:** H2023033916

To: Hon Matt Doocey, Minister for Mental Health

Consulted: Health New Zealand: Māori Health Authority:

Contact for telephone discussion

| Name | Position | Telephone |
|-------------------------|--|-----------|
| Dr Diana Sarfati | Director-General of Health, Ministry of Health Manatū Hauora | s 9(2)(a) |
| Robyn Shearer | Deputy Director-General Clinical, Community and Mental Health Te Pou Whakakaha | s 9(2)(a) |

Minister's office to complete

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|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Scope of the Mental Health portfolio and recommended delegations

Security level: IN CONFIDENCE **Date:** 12 December 2023

To: Hon Matt Doocey, Minister for Mental Health

Purpose of report

1. This briefing supports you to clarify the scope of your Mental Health portfolio in line with the approach recommended by the Cabinet Office. It attaches a letter which could be provided to the Prime Minister after any necessary discussions with colleagues.

Summary

2. Following discussions with officials about your preferences for the scope of your portfolio, and the expectations about how it interacts with others across government, you could consider requesting that:
 - a. you have responsibility for and oversight of all strategy, policy and performance matters and activities within the health system relating to mental health, alcohol and other drug use, gambling harm, addiction, and suicide prevention and postvention funded within Vote Health
 - b. it is expected that responsible Ministers across government consult you on any strategy and policy and inform you of implementation and progress of matters relevant to mental health, addiction including gambling harm and alcohol and other drug use, or to reduce suicide. This is likely to include work across education, social development, the justice sector, vulnerable children's issues, housing, environment and at times other portfolios.
3. To also be clear about how your portfolio works alongside the Minister of Health, you could discuss aspects of the health system that will be relevant to both of your interests with Hon Dr Reti, and your preferred way of working together. Following that, you could consider requesting that the Minister of Health is expected to consult with the Minister for Mental Health on:
 - a. the Government Policy Statement on Health and the New Zealand Health Plan to consider direction of mental health, alcohol and other drug use, gambling harm, addiction, and suicide prevention and postvention issues in the health system
 - b. the preparation of Budget proposals that relate to the areas noted above and/or impact provision of mental health and addiction services and supports
 - c. health system performance, including health targets and performance measures which relate to mental health and addiction
 - d. other health system matters such as workforce, infrastructure, and health system reforms, especially where they have impact upon mental health, alcohol and other drug use, gambling harm, addiction, or suicide prevention and postvention.

4. You will need to request that the Prime Minister considers and agrees to your preferred articulation of your portfolio, as outlined. We have attached a letter which you could send to him.
5. Given that this is a new portfolio which I understand you expect to evolve over time, the Ministry will provide you with further advice to support you to take further decisions about your financial responsibilities. This will include considering how financial structures can best support your priorities. I recommend that you notify both the Minister of Health and Prime Minister that you intend to consider this further and that you anticipate your portfolio evolving and a review being useful in future.
6. In the meantime, you could seek oversight of mental health and addiction-related funding within Vote Health under delegation from the Minister of Health, but the Minister of Health would remain the sole responsible Minister for Vote Health and you would act on his behalf on these areas. This would mean that you make policy and priority decisions and have oversight of:
 - a. the mental health and addiction ringfence expectation
 - b. expenditure related to the Mental Health and Wellbeing Commission
 - c. the alcohol levy
 - d. the problem gambling levy.
7. As Minister for Mental Health, you could request delegations for the following statutory powers of the Minister of Health, which I consider would fit with the policy priorities of the Mental Health portfolio:
 - a. all statutory powers of the Minister of Health within the Mental Health (Compulsory Assessment and Treatment) Act 1992 and the Substance Addiction (Compulsory Assessment and Treatment) Act 2013
 - b. the statutory powers of the Minister of Health to set the alcohol levy under the Pae Ora (Healthy Futures) Act 2022
 - c. all powers of the Minister of Health under the Gambling Act 2003
 - d. all powers currently held by the Minister of Health as the responsible Minister for the Mental Health and Wellbeing Commission Act 2020, noting that the authority for identifying the responsible Minister sits with the Prime Minister
8. The Ministry can brief you on these responsibilities following confirmation of your Mental Health portfolio delegations by the Prime Minister.
9. Given the extent that many of these responsibilities relate to areas previously within the Health portfolio, I recommend you discuss this with the Minister of Health in advance of seeking clarification from the Prime Minister. I understand that you have a meeting scheduled on Wednesday 13 December.

Recommendations

I recommend you:

- a) **Discuss** these proposed responsibilities and delegations with the Minister of Health **Yes / No**
- b) **Sign and send** the attached letter in Appendix 1 to the Prime Minister following discussion with the Minister of Health **Yes / No**



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora
Date: 13/12/2023

Hon Matt Doocey
Minister for Mental Health
Date:

PROACTIVELY RELEASED

Scope of the Mental Health portfolio and recommended delegations

Context

1. More detail is needed to define the new Mental Health portfolio in addition to the letter of authorisation you recently received from the Prime Minister. The letter identified that you as the Minister for Mental Health would be responsible for a cross-government strategy, and will be supported by the Ministry of Health.
2. To progress work on your priorities it will be helpful to have a clear view of the specific policy areas, issues, work programmes, funding or appropriation(s), and legislative responsibilities which form the new Mental Health portfolio.
3. There are cross-government matters to consider, as well as which parts of the health system are now in your portfolio. Given how interrelated your portfolio is with the Health portfolio, it will also be useful to be clear about how the two portfolios will align and any expectations for collaboration or shared decision making on matters relevant to both portfolios.
4. The establishment of a new Mental Health portfolio presents opportunities to elevate consideration of mental health both within the health system and across government. It is important the scope of the portfolio provides you with clear authority and influence over relevant matters, without inadvertently creating siloes, being too prescriptive, or removing accountability for contributing to mental health from other portfolios.
5. As such, I understand you would prefer some flexibility for the approach to evolve, where possible, as you engage with and learn from Ministers for Mental Health in other jurisdictions and as ways of working across portfolios become clear. For this reason, I have suggested some initial arrangements with softer structural boundaries which can be revisited and strengthened as needed prior to the start of the 2024/25 financial year.

Cross-government responsibilities and interface with mental health

6. I understand the intention in establishing a Mental Health portfolio is to ensure coordinated cross-government activity to strengthen the mental health of New Zealanders, while also ensuring the health system supports mental health.
7. Giving effect to this portfolio and ensuring strengthened cross-government activity can be achieved in a range of ways, including:
 - a. shifting responsibilities into the Mental Health portfolio that currently sit within other portfolios
 - b. by working collaboratively with other Ministers without having this specified by the Prime Minister
 - c. by requesting that the Prime Minister specifies that you should be involved in and across other portfolios in a collaborative way, where relevant.
8. I have provided some further thoughts on each of these options in the table below.

| Option | Description and considerations |
|---|---|
| a) Shifting responsibilities into the Mental Health portfolio that currently sit within other portfolios | <p>You could ask that the Prime Minister gives you very specific responsibilities by identifying certain issues or programmes of work across government that would become your direct responsibility. For example, the work to ensure beneficiaries access appropriate mental health and addiction supports when they need to.</p> <p>However, this way of defining your responsibilities could cause siloes or mean you become responsible for wider social issues that affect mental health and distress that cannot be resolved without wider system action and change. These issues may be best addressed while they remain integrated within the housing, environment, welfare, justice, and other portfolios and systems.</p> |
| b) Working collaboratively with other Ministers without having this specified | <p>You could instead ask your colleagues to involve you in their portfolios where their work impacts or strengthens mental health, without having any expectations expressed formally by the Prime Minister. You could establish useful forums for this such as a Ministerial group, for example, regardless of your portfolio responsibilities. However, this alone may be less effective than if collaboration were required through the Prime Minister's expectations.</p> |
| c) Specifying that you should be involved in and across other portfolios in a collaborative way, where relevant | <p>You could ask the Prime Minister to formally lay out expectations that there is collaborative work involving the Mental Health portfolio in other areas outside Vote Health, including strategic work across government. You would be consulted by another portfolio Minister to make sure there is due consideration given to how issues impact or strengthen mental health, however under this proposal:</p> <ul style="list-style-type: none"> • the issues would not be shifted from the original portfolio to yours and other relevant Ministers would continue to be accountable • you would not have direct authority over or responsibility for any funding, legislation or services that are the responsibility of the other portfolio Ministers. |

9. The approach in Option C aligns with what I understand are your intentions in striking the balance of ensuring you as the Minister for Mental Health are involved and able to drive the areas of work that impact mental health, and have more visibility and oversight of those areas, without becoming responsible for wider social issues that can cause distress. For example, this would ensure you are:

- a. involved in strategy and policy decisions about how people in prison are provided mental health support by the Minister of Corrections
- b. involved in strategy and policy decisions about counsellors in schools by the Minister of Education
- c. overseeing work on how the system responds to people experiencing mental health-related crises alongside the Minister of Police.

10. In line with advice from the Cabinet Office, to progress this you could request that the Prime Minister clarifies you should be consulted by responsible Ministers across government for all strategy and policy matters related to mental health and addiction issues including gambling harm and alcohol and other drug use, or to reduce suicide. This would also include ongoing oversight of any implementation or progress of relevant initiatives.

- a. This is likely to include work across education, social development, the justice sector, vulnerable children's issues, housing, environment, and at times other portfolios.

- b. I expect that this visibility and consultation will be helpful to you for both forming and implementing a cross-government strategy for mental health.
 - c. The degree of your involvement as the Minister for Mental Health can be worked through on a case-by-case basis relative to the nature of work underway in other portfolios, and the Ministry can support you in this.
11. Your letter from the Prime Minister also outlines that you will be supported by the Ministry of Health in collaboration with the Ministry for Social Development (MSD). Ministry of Health officials have checked with MSD and agree that there are no specific items from MSD that we understand would be in scope of your portfolio as you intend it at this point, beyond the arrangements described above. I suggest that this is not progressed, and the attached draft letter to the Prime Minister reflects that (Appendix 1). The Ministry will continue to work collaboratively with MSD as issues arise and on routine matters.

Health sector responsibilities and interface with mental health

12. The Mental Health portfolio is closely linked to the broader Health portfolio and the health system, and many of the responsibilities you are interested in are derived from the Health portfolio. This will mean that you and the Minister of Health will likely need to continue to work closely together, and that you need to agree about your responsibilities.
13. Your portfolio can be shaped in a way that does not divorce links with the health system and Health portfolio, and recognises that physical and mental health are intertwined. The health system will need to continue to serve and support both physical and mental health issues, and there are systemic issues impacting mental health that require wider health system levers to address (e.g., health workforce settings).
14. Your letter of authorisation makes it clear that you have sole responsibility for all matters that were previously in the Health portfolio relating to mental health. However, I understand that there are some further details that you would like to ensure are clear to support shared understanding with the Minister of Health and the rest of Government about the scope of your portfolio.
15. To achieve this, you could ask the Prime Minister to clarify that your portfolio includes all strategy, policy and performance matters and activities within the health system (including across the Ministry of Health, Health New Zealand, the Māori Health Authority and the Mental Health and Wellbeing Commission, funded within Vote Health) relating to:
- a. mental health
 - b. alcohol and other drug use
 - c. gambling harm
 - d. addiction
 - e. suicide prevention and postvention.

Interface with wider health system settings

16. The Minister of Health will progress work that shapes the overall health system which you may also want to be closely involved with. This would ensure that mental health issues are considered as part of health system design and performance, and that you have a view of how the health system delivers to your priorities too.
17. To ensure the interaction with the Health portfolio is clear, you could discuss this with the Minister of Health in the first instance. You could seek his support before requesting the Prime Minister to clarify that the Minister of Health is expected to work collaboratively with the Minister for Mental Health and consult you specifically on:
 - a. the Government Policy Statement on Health and the New Zealand Health Plan to consider direction of mental health, alcohol and other drug use, gambling harm, addiction, and suicide prevention and postvention issues in the health system
 - b. the preparation of Budget proposals that relate to the areas noted above and/or impact provision of mental health and addiction services and supports
 - c. health system performance, including health targets and performance measures which relate to mental health and addiction
 - d. other health system matters such as workforce, infrastructure and health system reforms, especially where they have impact upon mental health, alcohol and other drug use, gambling harm, addiction, or suicide prevention and postvention.
18. As with the collaborative cross-government role I understand that you would like your portfolio to play, this work with the Minister of Health would not give you direct responsibility or decision-making rights over these parts of the Health portfolio (including any funding), but your involvement in relevant decisions would be expected.

Options for financial structures to align with the portfolio scope

19. There are not currently any separate appropriations for mental health and addiction related outputs. Rather this funding sits across multiple appropriations in Vote Health, which the Minister of Health has responsibility for. Current financial arrangements are as follows (refer HR2023033583 for further information):
 - a. The mental health and addiction ringfence is an expectation calculated by the Ministry of Health each year as part of planning processes to establish the minimum expected expenditure by Health New Zealand and the Māori Health Authority on mental health and addiction services, workforce development, and associated activities. The ringfence expectation was approximately \$2.2 billion in 2022/23. It is not a defined funding source and appropriated separately, rather it captures expenditure across several Vote Health appropriations delivered by the two entities. The ringfence amount only related operating expenditure does not include expenditure on mental health infrastructure.
 - b. Funding for the Mental Health and Wellbeing Commission sits within a wider Monitoring and Protecting Health and Disability Consumer appropriation within Vote Health (approximately \$5.4 million in 2023/24).
 - c. The Ministers of Health and Finance agree an annual aggregate expenditure figure in relation to the alcohol levy, the funding from which sits across several appropriations within Vote Health (approximately \$11.5 million).

d. There is a separate Problem Gambling Services appropriation for funding from the problem gambling levy (approximately \$26 million).

20. The ringfence is currently a critical mechanism for influencing spend on mental health and addiction within the health system, including year-on-year growth without necessarily limiting it to an appropriated amount. It was established to ensure that the proportion of Vote Health expenditure on mental health and addiction should increase over time, at least in line with or greater than other areas of health (reflective of historic underinvestment and redirection of mental health and addiction funding to other areas). As it is a minimum and not a set amount, it also maintains flexibility and gives the health entities discretion to spend more than that quantum if that is what their communities need.

21. s 9(2)(f)(iv) [Redacted]

22. s 9(2)(f)(iv) [Redacted]

a. s 9(2)(f)(iv) [Redacted]

b. s 9(2)(f)(iv) [Redacted]

c. s 9(2)(f)(iv) [Redacted]

23. s 9(2)(f)(iv) [Redacted]

24. I understand that instead of making a firm decision about funding structures in your portfolio at this point, you are comfortable with allowing some time for your portfolio to evolve and to determine what kind of funding mechanism would best achieve your priorities as the nuances of this new Mental Health portfolio become more well understood.

25. The Ministry will provide you with further advice with more detailed consideration about maintaining investment growth. **§ 9(2)(f)(iv)**
[Redacted]
26. In the meantime, the Minister of Health could maintain formal accountability for overall Vote Health spend, but could delegate to you as Minister for Mental Health oversight and responsibility for setting policy and prioritisation for relevant expenditure **§ 9(2)(f)(iv)**
§ 9(2)(f)(iv) This would include:
- expenditure against the mental health and addiction ringfence expectation
 - expenditure related to the Mental Health and Wellbeing Commission
 - the setting of and policy related to expenditure against the alcohol levy under the Pae Ora (Healthy Futures Act) 2022
 - the setting of and strategy and policy for expenditure against the problem gambling levy in line with the Gambling Act 2003.
27. With this arrangement, the Minister of Health would retain responsibility for the Health Capital Envelope, including for the Mental Health Infrastructure Programme. This is because of the integrated nature of that programme with wider health infrastructure processes. However, as outlined in the previous section, you could request that the Prime Minister makes clear the expectation that you are involved in discussions and decision making with implications for the Mental Health Infrastructure Programme.
28. **§ 9(2)(f)(iv)**
[Redacted]

Legislative responsibilities

29. As Minister for Mental Health, you could request delegations for the following statutory powers of the Minister of Health, which I see would fit with your policy priorities of the Mental Health portfolio:
- all statutory powers of the Minister of Health within the Mental Health (Compulsory Assessment and Treatment) Act 1992 and the Substance Addiction (Compulsory Assessment and Treatment) Act 2013
 - the statutory powers of the Minister of Health to set the alcohol levy under the Pae Ora (Healthy Futures) Act 2022
 - all powers of the Minister of Health under the Gambling Act 2003
 - all powers currently held by the Minister of Health as the responsible Minister for the Mental Health and Wellbeing Commission Act 2020, noting that the authority for identifying the responsible Minister sits with the Prime Minister.

30. s 9(2)(h)
31. You could request delegations for the Misuse of Drugs Act 1975 or Psychoactive Substances Act 2013 as part of the Mental Health portfolio. However, these Acts largely govern regulatory regimes which are the core business of the Health portfolio, such as the regulation of controlled drugs which are used as medicines, and licensing of drug checking providers. Instead, you could request to be at least consulted, and possibly have shared decision making should there be any legislative work undertaken regarding either of these Acts.
32. Where Associate Ministers of Health have previously had responsibilities for mental health, they have often been delegated responsibility for decisions about care recipients under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (IDCCR Act). This was because the Ministerial decisions required within this Act are very similar to those for Special Patients under the Mental Health Act. There is currently policy work underway to explore whether responsibility for the Act should be transferred to the Ministry for Disabled People | Whaikaha.
33. In this case, I understand your view is the IDCCR Act responsibilities may be better held by the Minister of Health or an Associate Minister who has responsibilities for disability issues, rather than within your portfolio as the Minister for Mental Health. I have no concerns about this.

Next steps

34. I can provide further information or advice about the proposed scope of the Mental Health portfolio and delegations at your request.
35. If you wish, we could also arrange to revisit advice about delegations for the new Mental Health portfolio in future to check that they best support your responsibilities and priorities. You may wish to raise this kind of review point with the Prime Minister.
36. We recommend that you discuss the scope of your responsibilities and your delegations with the Minister of Health ahead of your correspondence with the Prime Minister given that many of these matters relate to his Health portfolio.
37. To request delegations, you will need to send a letter to the Prime Minister. The attached letter in Appendix 1 summarising these could be sent to the Prime Minister for his consideration.
38. Following your portfolio scope and delegations being confirmed by the Prime Minister, the Ministry will:
- progress further work on mechanisms and structures that would maintain investment growth and provide you with clear authority to achieve your priorities
 - brief you on your delegated legislative powers and responsibilities.

Hon Matt Doocey

Minister for ACC
Minister for Mental Health
Minister for Tourism and Hospitality
Minister for Youth
Associate Minister of Health
Associate Minister of Transport



20 December 2023

Rt Hon Christopher Luxon, Prime Minister
Executive Wing
Parliament Buildings
Wellington, New Zealand

Dear Prime Minister,

I am excited about my appointment as Minister for Mental Health and eager to progress work. It is fantastic to have this new portfolio established.

Following a discussion about this with the Minister of Health, Hon Dr Shane Reti, I am writing to you to seek your agreement and clarification of the scope of my Mental Health portfolio, the delegations that are provided with it, and the expectations about how it interacts with other portfolios across government. Given this portfolio is new, I expect it will evolve over time and we may need to revisit these arrangements in future to check they are suitable to achieve our priorities.

I understand that you have already provided me responsibility for and oversight of all strategy and policy matters and activities within the health system relating to mental health. I consider that this also includes the matters and activities relating to alcohol and other drug use, gambling harm, addiction, and suicide prevention and postvention, which are important issues closely linked to mental health, and I am seeking your confirmation of this.

As part of my authorisation as Minister for Mental Health you also outlined that I am responsible for progressing a cross-government strategy for mental health. To aid me in this work, and to ensure mental health is well-addressed across all portfolios, it would be beneficial if you could outline that you expect responsible Ministers across government to consult me on any strategy and policy matters relevant to my portfolio that arise within theirs, as well as the implementation and progress of relevant initiatives. I expect that this is likely to include work across education, social development, the justice sector, vulnerable children's issues, housing, environment and at times other portfolios.

To be clear about how my portfolio works alongside the Minister of Health's, it would be useful to outline some specific areas on which we are expected to work together. I have spoken about this with the Minister of Health and we agree that it would be appropriate if he is expected to consult with me on:

- a. the Government Policy Statement on Health and the New Zealand Health Plan to consider direction of mental health, alcohol and other drug use, gambling harm, addiction, and suicide prevention and postvention issues in the health system
- b. the preparation of Budget proposals that relate to the areas noted above and/or impact provision of mental health and addiction services and supports
- c. health system performance, including health targets and performance measures which relate to mental health and addiction
- d. other health system matters such as workforce, infrastructure, and health system reforms, especially where they have impact upon mental health, alcohol and other drug use, gambling harm, addiction, or suicide prevention and postvention.

I intend to seek advice and take further decisions about my financial responsibilities and the way they are structured. In the meantime, I would like to have oversight of mental health and addiction-related funding within Vote Health, but for simplicity the Minister of Health should remain the sole responsible Minister for Vote Health expenditure, and he agrees. With your agreement, for the time being I would act on his behalf on these areas and keep him informed as necessary. This would mean that I make policy and priority decisions, and have oversight of:

- a. the mental health and addiction ringfence expectation within Vote Health
- b. expenditure related to the Mental Health and Wellbeing Commission
- c. the alcohol levy, and
- d. the problem gambling levy.

I am also seeking your agreement to delegate to me the following statutory powers of the Minister of Health, which fit with the policy priorities of the Mental Health portfolio:

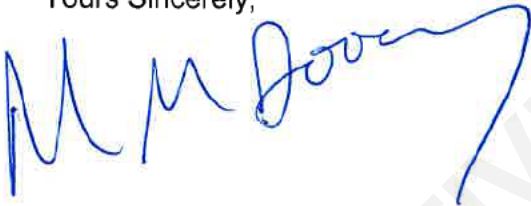
- a. all statutory powers of the Minister of Health within the Mental Health (Compulsory Assessment and Treatment) Act 1992 and the Substance Addiction (Compulsory Assessment and Treatment) Act 2013
- b. the statutory powers of the Minister of Health to set the alcohol levy under the Pae Ora (Healthy Futures) Act 2022
- c. all powers of the Minister of Health under the Gambling Act 2003

- d. all powers currently held by the Minister of Health as the responsible Minister for the Mental Health and Wellbeing Commission Act 2020, noting that the authority for identifying the responsible Minister sits with the Prime Minister.

Ministry of Health Officials have sought clarification from the Ministry of Social Development, and they agree that there are no specific delegations or oversight that they would recommend are provided to me from Social Development at this time. As a matter of tidiness, I am clarifying with you that despite my letter of authorisation, I will be serviced by the Ministry of Health in my capacity as Minister for Mental Health, and not the Ministry for Social Development. However, I do expect these Ministries to work together collaboratively through their usual business, and when mental health matters arise.

It would be helpful to have a letter from you in reply that outlines your decisions about these responsibilities and your expectations of my portfolio, so that I can share this with my Ministerial colleagues, and with Officials to instruct them to progress work. I will also seek your approval of any changes to my financial responsibilities which I may revisit once I have received further advice.

Yours Sincerely,



Hon Matt Doocey

Minister for Mental Health