

In Confidence

Office of the Associate Minister of Health
Chair, Appointments and Honours Committee

AGED CARE COMMISSIONER: APPOINTMENT

Proposal

- 1 This paper outlines my intention to advise the Governor-General to appoint Erin James as the Aged Care Commissioner for a five-year term commencing on **7 April 2026** and ending on **6 April 2031**.

Background

- 2 The Office of the Health and Disability Commissioner (the HDC) was established in 1994 under the Health and Disability Commissioner Act 1994 (the HDC Act). The HDC is an independent Crown entity for the purposes of the Crown Entities Act 2004 (the CE Act).
- 3 The HDC serves as the health system's independent watchdog and protects and promotes the rights of all people in New Zealand who use health and disability services. The HDC is responsible for promoting and protecting the rights of consumers as set out in the Code of Health and Disability Services Consumer's Rights (the Code) and investigates patient complaints and systematic issues within the health and disability system.
- 4 The HDC Act allows for one or more Deputy Commissioners to be appointed. There are currently two Deputy Commissioners, who each have a specific focus area, and one vacancy for the Aged Care Commissioner.
- 5 The Aged Care Commissioner was established as a Deputy Commissioner under the HDC Act in 2021. The focus of the Aged Care Commissioner is to:
 - 5.1 provide strategic oversight and stronger sector leadership to drive quality improvement
 - 5.2 report on thematic improvements in the aged care sector (eg, analysis of emerging issues)
 - 5.3 advocate for better services on behalf of older people and their families.
- 6 The Deputy Commissioners are appointed by the Governor-General on the advice of the Minister of Health (or delegate). In recommending a person for appointment, the appointing minister must be of the opinion that the person has the appropriate knowledge, skills, and experience to assist the Health and Disability Commissioner (Commissioner) in achieving their objectives and to perform their functions (section 29(2)(a) of the CE Act).
- 7 A Deputy Commissioner may hold office for a term of five years or any shorter period (section 32(1)(b) of the CE Act) and may be reappointed (section 32(2) of the CE Act).

Comment

- 8 I intend to recommend to the Governor-General that she appoint **Erin James** as the Aged Care Commissioner for a five-year term of office.
- 9 Erin James' legal and human rights experience and expertise will provide a valuable perspective to the organisation. Ms James is currently Director of the Optional Protocol to the Convention Against Torture (OPCAT) team at the Office of the Ombudsman. She has strong leadership skills with relevant public sector experience particularly focused on maintaining the rights of vulnerable communities, with a sound understanding of challenges older people face accessing health and disability services. Ms James was the Head of Investigations/Head of Report: Lake Alice and Social Welfare Investigations at the Royal Commission of Inquiry into Historic Abuse in Care in 2021 to 2022. Ms James obtained a LLB/BSc, BA(Hons) – First Class Honours (2008) and Master of Laws – First Class Honours (2009) from the University of Auckland. Ms James is currently completing a Master of Laws in Human Rights and Constitutional Law at the London School of Economics and Politics. She was admitted as a Barrister and Solicitor of the High Court in New Zealand in 2008.

Representation

- 10 The Deputy Commissioner role is a full-time position, unlike the majority of health-related appointments. The appointee must have the appropriate knowledge, skills, and experience to assist the Commissioner in achieving its objectives and performing its functions. This criterion is a required consideration under section 29(2)(a) of the CE Act.
- 11 The current Commissioner and Deputy Commissioners are all female, and all reside in the North Island. The Commissioner and one of the Deputy Commissioners are New Zealand European, and one Deputy Commissioner is Māori.

Remuneration

- 12 The remuneration for the Commissioner and Deputy Commissioners is set by the Remuneration Authority under section 47(1)(b)(i) of the CE Act.

Appointment process

- 13 I can confirm that an appropriate process was followed in considering the proposed appointment in accordance with the Public Service Commission – Te Kawa Mataaho *Board Appointment and Induction Guidelines*.
- 14 In summary, that process comprised public advertising and seeking nominations from nominating agencies, interviews, conflict of interest checks, and other due diligence checks, including Ministry of Justice criminal record checks and referee checks.

Conflicts of interest

- 15 I can confirm that appropriate enquiries concerning conflicts of interest were conducted, in accordance with the *Board Appointment and Induction Guidelines*, to identify any conflict of interest that could reasonably be identified.
- 16 No conflicts were identified, and no concerns were raised about Ms James that would preclude her appointment.

Communications

- 17 Once the Governor-General has made the above appointment a notice will be published in the *New Zealand Gazette* as required under section 28(4) of the CE Act.

Recommendation

- 18 I recommend the Committee notes my intention to advise the Governor-General to appoint Erin James as Aged Care Commissioner for a five-year term commencing on 7 April 2026 and ending on 6 April 2031.

Authorised for lodgement

Hon Casey Costello

Associate of Minister of Health