Terms of Reference – inquiry under section 101 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 into the care and rehabilitation at Ward 10A, Wakari Hospital

1. Background

1.1. On 2 April 2026, the Chief Ombudsman wrote to the Director-General of Health, the Chief Executive of Health New Zealand, and the Director of Mental Health and Addictions. He raised serious concerns about the care of care recipients[1] in Ward 10A, Wakari Hospital, Dunedin.

1.2. On 15 and 16 April 2026, the Director of Mental Health and Addictions inspected Ward 10A and other services on the Wakari Hospital campus. He agreed with the concerns expressed by the Chief Ombudsman.

1.3. On 28 April 2026, the Director of Mental Health and Addictions wrote to the Group Director of Operations for Health New Zealand Southern setting out his concerns and requesting urgent action for the care recipients and to address the limitations of the infrastructure and care offered in Ward 10A.

1.4. A district inspector under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (the Act) confirmed at the 15 and 16 April 2026 visit that she had received a complaint of the care and rehabilitation of one care recipient and would commence an investigation under section 98 of the Act. A preliminary complaint investigation of another care recipient is in the early stages of investigation.

1.5. On 15 May 2026, senior officials of Health New Zealand (being the Chief Executive, the Executive Director Clinical, the South Island Executive Regional Director, and the National Director Mental Health & Addictions) visited Ward 10A. A decision was made to close Ward 10A for any future admissions and to transfer four care recipients to other facilities. Instructions were also issued to stop the inappropriate use of an EVAC blanket[2].

1.6. There has been ongoing concern about the care and rehabilitation of care recipients in Ward 10A for some time. These include allegations of inappropriate limitations on broader health care needs.

1.7. On 18 May 2026, the Chief Ombudsman wrote again to the Director-General of Health, the Chief Executive of Health New Zealand, and the Director of Mental Health and Addictions. In this letter, the Chief Ombudsman requested '*the Ministry of Health ensure*

[1] 'Care recipients' are people who are subject to a compulsory care order under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

[2] An EVAC blanket is a medical device designed for the safe movement of non-ambulatory people during emergencies. In this situation, it was used to transfer a care recipient to and from seclusion or their bedroom.

an independent investigation is undertaken concerning Ward 10A, focusing on the treatment and conditions of tāngata whaikaha on the Ward'.

1.8. On 1 July 2026, Ms Katie Lane, district inspector under the Act in Dunedin, finalised the complaint investigation under section 98 of the Act. The outcome of this investigation under section 98(3)(a) was to initiate a section 101 investigation.

2. Establishment of Inquiry

2.1. To better understand the situation, to ensure appropriate steps are put in place to avoid similar situations in the future and to widen the scope of the inquiry to cover matters beyond the particular complaint at 1.8, the Director-General of Health therefore has commissioned Mr Andrew Molloy to undertake an inquiry under section 101(2) of the Act.

3. Purpose of Inquiry

3.1. The purpose of the inquiry is:

3.1.1. To investigate and report on the care and rehabilitation of the care recipients at Ward 10A, Wakari Hospital, including the decision-making and practices used; and

3.1.2. to assess whether the care and rehabilitation upheld the dignity and rights of the care recipients and complied with the Act and any applicable standards including the New Zealand Bill of Rights Act 1990 and the Convention on the Rights of Persons with Disabilities.

3.2. The inquiry may make recommendations for any steps or practice improvements that should be implemented as a result of its findings.

4. Inquirer

4.1. The inquiry is to be carried out by Mr Andrew Molloy, district inspector of Counties Manukau. Mr Molloy will be assisted by Mr Nigel Fairley, consultant clinical psychologist. Mr Molloy may seek such other assistance as reasonably required to carry out this inquiry.

5. Scope of Inquiry

5.1. The inquiry will include, but not be limited to, consideration of the following matters:

5.1.1. Whether the care recipients in Ward 10A have received care and rehabilitation in accordance with the Act and at the required standard during the 24-month period from June 2024 to June 2026.

5.1.2. Whether any limitations or restrictions placed on care recipients have been proportionate to any risks they have posed and are consistent with the provisions of the Act, the New Zealand Bill of Rights Act 1990, and the Human Rights Act 1993.

5.1.3. Whether referral is necessary to the Health and Disability Commissioner if potential breaches of the Code of Health and Disability Services Consumers' Rights have been identified, or to the NZ Police if there is suspected criminal conduct.

5.1.4. Whether care recipients' rights under the Act have been upheld and protected.

5.1.5. Whether any unjustifiable limitations placed on them have been influenced by or arisen because of service policies, procedures, service provision, or infrastructure requirements.

5.1.6. Whether Health New Zealand has provided adequate oversight to the administration of the Act within Ward 10A and, in particular, whether the care managers for the care recipients had suitable authority to discharge their duties under the Act.

5.1.7. Whether concerns raised by the district inspectors and the Ombudsman received timely and appropriate responses and actions from Health New Zealand, the Forensic Coordination Service (Intellectual Disability), and any other agencies involved in the administration and operation of the Act.

5.1.8. Whether there are systematic issues that may be or are impacting on other current or future care recipients.

5.1.9. Provide recommendations on any actions necessary to address the findings of the Inquiry.

6. Powers of the Inquiry

6.1. In accordance with section 101 of the Act, the Inquiry has the same powers and authority to summon witnesses and receive evidence as are conferred upon Commissions of Inquiry by the Commissions of Inquiry Act 1908. The provisions of the Commissions of Inquiry Act 1908 Act apply accordingly, except sections 11 and 12, which relate to costs.

6.2. The Inquiry will seek to operate efficiently and to minimise unnecessary trauma to individuals. The Inquiry may receive information from any other investigation or review into Ward 10A and the operational delivery of the Act, including without limitation by Health New Zealand.

6.3. The Inquirer will speak with and gather information from local district inspectors on their observations, action, and responses received from Health New Zealand and the Forensic Coordination Service (Intellectual Disability).

6.4. The inquiry will observe principles of natural justice and procedural fairness at all stages of the process.

7. Confidentiality and Privacy

7.1. The inquiry must take all necessary steps to protect the privacy of the care recipients and their families. All identifiable information must be anonymised in any published findings unless legally justified and consented to.

8. Reporting

8.1. The inquiry is to produce a final written report, including:

8.1.1. A summary of factual findings, including a summary suitable for publication.

8.1.2. An analysis of whether the care and rehabilitation complied with relevant standards.

8.1.3. Recommendations to improve clinical practice, legal compliance, and systemic oversight.

8.2. The full report is to be submitted to the compulsory care co-ordinator and the Director-General of Health. A public summary report may be prepared with appropriate redactions for privacy.

9. Timeframe

9.1. The inquiry is to commence as soon as practicable and a final report shall be delivered within six months from the date of commencement, unless otherwise agreed by the Director-General of Health.

Dated at Wellington on 13 July 2026

Audrey Sonerson
Director-General of Health
Ministry of Health