



Cabinet

Minute of Decision

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Establishing a New Independent Mental Health and Wellbeing Commission

Portfolios **State Services / Health**

On 1 July 2019, following reference from the Cabinet Social Wellbeing Committee, Cabinet:

Background

- 1 **noted** that in May 2019 Cabinet agreed, as part of the government's response to He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction (the Inquiry), that the government indicate that it intends to establish an independent Mental Health and Wellbeing Commission (the Commission) to enhance cross-agency oversight, monitoring and accountability of mental health and addiction [CAB-19-MIN-0621];

Purpose, functions, form and powers of the Commission

- 2 **agreed** that the purpose of the Commission is to:
 - 2.1 provide leadership within New Zealand's mental wellbeing system, including by promoting a shift from an illness approach to a wellbeing approach, to improve mental wellbeing, emphasise promotion and prevention, reduce stigma, and improve equity;
 - 2.2 provide independent cross-government oversight and hold the government to account for improving the mental wellbeing of people in New Zealand;
 - 2.3 uphold and actively promote the principles of Te Tiriti o Waitangi in relation to the promotion of mental wellbeing in New Zealand;

- 3 **agreed** that the Commission will have the following functions, required to give effect to its purpose:

System-level oversight and leadership functions

- 3.1 provide system oversight, which involves taking an overview of whether government agencies and entities with responsibilities for mental wellbeing are performing as a system;
- 3.2 promote collaboration among key organisations and groups in the mental health and addiction sector, to improve the experiences of tāngata whaiora and their families and whanau;
- 3.3 work with relevant stakeholders to inform and influence policy and research that impacts on mental wellbeing;

- 3.4 report on and make public statements about the mental wellbeing of people in New Zealand;

Monitoring and advocacy functions

- 3.5 monitor the government's progress in improving mental health and wellbeing in New Zealand;
- 3.6 provide system-level advocacy for the collective interests of people with lived experience of mental health and addiction issues and their families and whanau;
- 4 **agreed** to establish the Commission as an autonomous Crown entity, with the provisions of the Crown Entities Act 2004 to apply;
- 5 **agreed** that the Minister of Health be the responsible Minister for the Crown entity;
- 6 **agreed** that the Commission will have the following powers, required to effectively carry out its functions:
- 6.1 publicly report on any matters in relation to mental health and addiction services or impacting on the mental health and wellbeing of people in New Zealand;
- 6.2 make recommendations to any Minister, including the Prime Minister;
- 6.3 obtain information or data from government departments and statutory Crown entities (note that this will not override individual privacy rights);
- 7 **noted** that further work will be done before the drafting of legislation on the details of the powers referred to in paragraph 6.3, including the scope of the information the Commission is likely to require, and from whom, with the Minister of Health seeking decisions on these matters when the Cabinet Legislation Committee consider's the draft Bill;
- 8 **agreed** that the governance of the Commission will consist of a board of two to five members, who will also serve as Commissioners;
- 9 **noted** that, when it is established as an autonomous Crown entity, the Commission will initially have three Commissioners;
- 10 **noted** that the term of the current Mental Health Commissioner, under the Health and Disability Commissioner Act 1994, ends in February 2021;
- 11 **agreed** that the Health and Disability Commissioner Act 1994 will be amended to remove the position of Mental Health Commissioner and functions to do with service-level monitoring and advocacy in relation to mental health and addiction;
- 12 **noted** that the Minister of Health will give further consideration to an arrangement for how the Mental Health Commissioner can work alongside the Commission, in its early form as an Interim Commission;
- 13 **invited** the Minister of State Services and Minister of Health, in consultation with the Prime Minister, to give further consideration to which department should be the monitoring department for the Commission;

Legislative implications

- 14 **invited** the Minister of Health to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions above;

15 **authorised** the Minister of Health to make any technical and administrative changes required to finalise the Mental Health and Wellbeing Commission Bill (the Bill) prior to its submission to the Cabinet Legislation Committee;

16 **noted** that:

16.1 s 9(2)(ba)(ii)

16.2 it is estimated that the Bill would pass into law no sooner than late 2020;

Initial establishment of an Interim Mental Health and Wellbeing Commission

17 **agreed** to initially establish an Interim Commission, while legislation progresses, to undertake the following priority work:

17.1 beginning system overview and advocacy functions, including by making public comments and recommendations to Ministers;

17.2 promoting collaboration;

17.3 carrying out the first progress report on implementation of the government's response to the Inquiry;

18 **noted** that the Interim Commission will consist of five members;

19 **invited** the Minister of Health to report to the Cabinet Appointments and Honours Committee with nominees for the membership of the Commission / Interim Commission and a terms of reference;

20 **noted** that the Ministry of Health will report quarterly to the Interim Commission on progress delivering its contribution to the government's response to *He Ara Oranga: Government Inquiry into Mental Health and Addiction*;

Consultation

21 **authorised** the Minister of Health and the Minister of State Services to release an exposure draft of the Bill for targeted consultation with key stakeholders, including Māori, people with lived experience of mental wellbeing issues, and disabled people;

Financial implications

22 **noted** that \$2 million per annum has been secured through Budget 2019 to fund the Commission;

23 s 9(2)(f)(iv)

24 **authorised** the Minister of Health to make any further decisions required consistent with the above decisions.

Michael Webster
Secretary of the Cabinet

Secretary's Note: This minute replaces SWC-19-MIN-0073. Cabinet deleted paragraphs 13 and 14 of the SWC minute and agreed to a new paragraph 13.

Hard-copy distribution: (see over)

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Minister of State Services
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