

In Confidence

Office of the Minister of Health
Chair, Cabinet Social Wellbeing Committee

Establishment of the Cancer Control Agency

Proposal

1. This paper provides an update on the establishment of the Cancer Control Agency by 1 December 2019 and seeks Cabinet's agreement to authorise the Minister of State Services to instruct Parliamentary Counsel Office to draft an Order in Council legally establishing the Cancer Control Agency as a new departmental agency within the Ministry of Health.

Executive Summary

2. In September 2019, the Government announced that the Cancer Control Agency (the Agency), a departmental agency to be hosted by the Ministry of Health, will be established by 1 December 2019.
3. Cabinet decisions are required to enable the Agency to function as a legal entity and to enable the State Services Commission to commence recruitment for the Agency's chief executive.
4. The establishment of the Agency as a departmental agency within the Ministry of Health necessitates new governance and accountability arrangements. This paper sets out the responsibilities of the Agency's chief executive and responsibilities of others, such as the Director-General of Health. A Departmental Agency Agreement will be jointly developed by the Director-General and the Agency chief executive, once appointed.
5. As confirmed by Cabinet, the estimated cost of establishing the Agency is \$2.017 million in the 2019/20 financial year, which is to be funded from Vote Health baselines. This figure is for the purposes of progressing both the Agency's establishment and the *New Zealand Cancer Action Plan 2019 – 2029: Te Mahere mō te Mate Pukepuku o Aotearoa 2019 – 2029* (the National Cancer Action Plan) in 2019/20.
6. s 9(2)(f)(iv) [Redacted]
7. s 9(2)(f)(iv) [Redacted]

Background

8. The establishment of the Agency as a departmental agency within the Ministry of Health by 1 December 2019 was authorised by the Cabinet Social Wellbeing

Committee under power to act on 28 August 2019 [CAB-19 MIN-0434; CAB-19-MIN-0447; SWC-19-MIN-0117 refer].

9. The Agency is part of a package of initiatives to improve cancer care. These were announced by the Prime Minister and me on 1 September 2019. The establishment of the Cancer Control Agency as a departmental agency within the Ministry of Health will strengthen national governance and leadership for cancer control.
10. The National Cancer Action Plan, also announced on 1 September, identifies the Government's priorities for improved cancer outcomes for New Zealanders. The National Cancer Action Plan includes creating a National Cancer Control Network in order to remove regional variation in care, and the ongoing development of quality performance indicators for specific cancer types, to measure progress towards consistent care across district health boards.
11. The appointment of Professor Diana Sarfati, a leading public health physician and cancer epidemiologist, as the interim National Director Cancer Control was announced at the same time. One of her tasks is to support the establishment of the new Agency. An interim advisory board is in place; it is chaired by the Director-General of Health and met for the first time on 22 October 2019. This group is designed to assist with establishment of the Agency and supporting the transition of key functions to the new Agency.

Comment

Purpose and functions

12. The Agency's purpose is to provide strong central leadership and oversight of cancer control. It will be equity-led, knowledge-driven and outcomes-focused, taking a whole-of-system focus on preventing and managing cancer. It will also be responsible for overseeing system-wide prioritisation and coordination of cancer care in New Zealand.
13. The Agency will consider how to get the best value from existing cancer care investment, make decisions on nationally agreed aspects of cancer control, and advise the government about what new services to fund.
14. It will be accountable for ensuring transparency of progress towards the goals and outcomes in the National Cancer Action Plan.
15. The Agency will develop initiatives to monitor and improve cancer system performance and practice improvements. Robust monitoring and evaluation will support stronger governance and drive the actions forward.
16. At this stage, five work-streams are proposed within the Agency:
 - 16.1 equity;
 - 16.2 treatment quality and standardisation;
 - 16.3 data monitoring and reporting;
 - 16.4 person-centred care;
 - 16.5 prioritisation, research and innovation.
17. Other cancer-related activities will, at least initially, be retained in the Ministry of Health, including the New Zealand Cancer Registry, cancer screening programmes,

cancer prevention and activities and cancer workforce planning. This will support the Agency to focus on both successful establishment activities as well as progressing new direction-setting work such as work to improve equitable cancer outcomes and supporting nationally consistent care. In addition, many of these activities sit within broader population health programmes of work and further consideration will be needed about the benefits of moving any of these functions into the Agency.

Governance and accountability

18. A department agency is an operationally autonomous agency within a host department. An amendment to the State Sector Act 1988 in 2013 enabled the establishment of departmental agencies. The objective of this amendment was to improve system coherence and consolidation and to reduce fragmentation and costs in the state sector.
19. Establishment of the Agency requires an Order in Council to name the Cancer Control Agency as a department agency on Schedule 1A of the State Sector Act 1988. I recommend that Cabinet authorise the Minister of State Services to issue drafting instructions to the Parliamentary Counsel Office for the Order in Council.
20. The Amendment to the State Sector Act will take effect by 1 December 2019, meaning the Agency will be operative from this date. A waiver to the gazetting notice period (the 28-day rule) will be required to enable the changes to the State Sector Act to have legal effect by that date.

Chief executive

21. The Agency will be headed by its own chief executive who will be responsible to the Minister of Health for the delivery of portfolio priorities and performance expectations relating to cancer control for Vote Health. The Minister of Health will be the responsible Minister for the Agency.
22. The chief executive's role and responsibilities will be established in accordance with Part 3 of the State Sector Act 1988. Under section 35, the Agency chief executive will be appointed by the State Services Commissioner.
23. The State Services Commissioner intends to appoint an acting Agency chief executive to commence on the day the Agency is established. The appointment of a substantive chief executive will occur at a later date.
24. A position description for the role of chief executive is being prepared and will be provided to Cabinet prior to appointment of a substantive chief executive to the role.
25. Once appointed by the State Services Commissioner, the Agency chief executive will oversee the Agency and provide national leadership and oversight in relation to cancer control.
26. Responsibilities of the Agency's chief executive will include:
 - 26.1 providing advice to the government on cancer control;
 - 26.2 reporting to the Minister of Health on the Agency's activities and functions;
 - 26.3 providing sector leadership as a principal and authoritative source of advice on cancer, including ensuring ongoing relationships with a broad range of

stakeholder (eg, Pharmac, health professionals, people affected by cancer, researchers);

- 26.4 setting the Agency's strategic direction and priorities for action, ensuring they are clearly aligned to those of the Ministry of Health;
- 26.5 ensuring the Agency meets its obligations, including meeting performance and outcome objectives, and ensuring the proper management and use of funds; and
- 26.6 ensuring the Agency's fulfilment of its equity-led and data-driven principles.

Advisory bodies

- 27. The expectation is that the Interim Cancer Control Board will transition to an Advisory Body to support the Agency chief executive in his or her role. It will provide expert and authoritative advice to the chief executive which reflects a whole-of-system focus on preventing, treating and managing cancer. The interim Advisory Body comprises senior and system health leaders, including the chair of the Māori Leadership Group – *Hei Ahuru Mōwai*.
- 28. The chief executive and Agency will be supported by Hei Ahuru Mōwai – the Māori Cancer Leadership Group. Hei Ahuru Mōwai will be responsible for engaging with Māori to identify how Māori wish to partner with the Agency and identifying key Māori cancer priorities to ensure these are central to the Agency's work plan.
- 29. In addition, a Clinical Advisory Body will include a range of cancer-related clinicians (eg, surgical, radiation oncology, nursing, palliative care) and will be responsible for providing expert clinical advice.

Departmental Agency Agreement and responsibilities

- 30. Once appointed, the Agency chief executive and the Director-General of Health will jointly develop the Departmental Agency Agreement (the Agreement). For transparency of the governance arrangements associated with the departmental agency and host agency, the indicative content that might be covered in the Agreement is outlined below.
- 31. The Agreement will need to be endorsed by the responsible Minister and will be subject to regular review by the chief executives. Once the Agreement is in place it would likely be able to be reviewed at any time, although should be reviewed no later than two years from the establishment date and every two years after that point.
- 32. Any questions on interpretation of the Agreement will be resolved between the Agency chief executive and the Director-General. If necessary, advice could also be sought in consultation with the State Services Commissioner or with the Secretary to The Treasury for matters relating to the Finance Portfolio.
- 33. The departmental agency form is intended to enable operational autonomy by the Agency, within a framework of strategic, policy and resource alignment with the Ministry of Health. The Agency chief executive would be responsible for all matters relating to the Agency's functions and the related responsibilities as a chief executive under the State Sector Act 1988.
- 34. The Ministry of Health, as host department, will present and publish strategic intentions for the whole Ministry, including the Agency. Advice on direction setting and

priorities may be provided by both the Agency and the Ministry, in relation to their respective spheres of responsibility.

35. The Ministry will administer Votes/appropriations for the Agency, although the Agency will be able to use appropriations administered by the Ministry under delegation.
36. Each chief executive is directly responsible to their Minister for performing their autonomous sphere of functions, powers and duties.
37. My officials will provide a report back to Cabinet at a convenient time after the Agency's legal commencement date and its first year of operations, in the context of any reforms recommended from the Health and Disability System Review chaired by Ms Heather Simpson.

Employment matters

38. All employees of the Agency will be employed by the Ministry of Health. On current estimates approximately 30 full-time-equivalent employees will be needed to work within the Agency. A proportion of these will be existing Ministry of Health employees who will be transferred to the Agency.
39. Some roles within the Agency are likely to be taken up by existing regional cancer network staff. A mapping exercise is progressing to determine how much additional staff resourcing is required for implementation of the Agency. There will be a change management process to map existing staff to new Agency roles.
40. The Director-General is responsible for Ministry-wide personnel matters, although is deemed under the State Sector Act 1988 to delegate to the Agency chief executive responsibility for all individual personnel employed in the Agency.
41. In matters relating to decisions on individuals employed on Agency work, the Agency's chief executive will act independently and will not be responsible to the Minister and Director-General. Both the Agency chief executive and Director-General will need to ensure that the engagement of employees and the conduct of the employment relationship is exercised in accordance with applicable law.
42. The Agreement would likely set out how any issues that arise, including on employment issues, will be resolved.

Staffing and the National Cancer Control Network

43. Work is underway to scope the work programmes of the four regional networks in order to map their activities to the Agency, with the networks being combined in a National Cancer Control Network (the Network). This will better support the implementation of the national programme under the National Cancer Action Plan and will help ensure consistent delivery across New Zealand.
44. Some of the resource of the regional networks will be redirected to the Network, while maintaining resource at the local level to address local needs. The Network will be expected to align with the National Cancer Action Plan's objectives and the Agency's work plan.

Corporate services

- 45. All existing corporate support services would continue to be provided by the Ministry of Health. These services include commercial and property, financial, people and performance, payroll, communications, legal, planning and performance data and analytics, procurement, information technology and support from the Office of the Director-General.
- 46. The scope, service level and costs for the provision of corporate services will be confirmed in the Departmental Agency Agreement.

Consultation

- 47. The government agencies consulted on this submission were the State Services Commission, The Treasury and the Department of Prime Minister and Cabinet.

Financial Implications

- 48. On 28 August 2019, the Social Wellbeing Cabinet Committee [SWC-19-MIN-0117; CAB-19-MIN-0447 refer].
 - 48.1 noted the estimated cost of establishing the Cancer Control Agency is \$2.017 million in 2019/20 and will be funded from Vote Health baselines;
 - 48.2 approved the following fiscally neutral adjustments to provide for the 2019/20 financial year establishment costs in the Ministry of Health with no impact on the operating balance or net core Crown debt

	2109/20
Departmental Output Expenses: Sector Planning and Performance	\$2.017 m
Non-departmental Output Expenses: National Personal Health Services	\$(2.017)

- 48.3 approved the changes to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply; and

48.4 s 9(2)(f)(iv) [Redacted]

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

Next Steps

- 50. Subject to Cabinet approval of the paper:
 - 50.1 the Minister of State Services will seek Cabinet and Executive Council approval for the Order in Council to amend Schedule 1A of the State Sector Act 1988;

50.2 subject to Cabinet and Executive Council consideration of the Order in Council the Cancer Control Agency will have legal effect from 1 December 2019;

50.3 by 1 December 2019, the State Services Commissioner will appoint an interim Agency chief executive;

50.4 once appointed, the Agency chief executive and the Director-General of Health will agree a Departmental Agency Agreement in writing, to be approved by me.

Legislative Implications

51. Establishment of the Agency will require an Order in Council to add to Schedule 1A of the State Sector Act 1988 and to provide for transitional matters. Cabinet and the Executive Council is scheduled to consider the Order in Council on 25 November 2019, with the departmental agency being legally established by 1 December 2019.

Regulatory Impact Analysis

52. An Impact Statement is not required because the proposal has no impacts, or only minor impacts, on businesses, individuals or not-for-profit entities, as it involves changes to the internal administrative or governance arrangements of the New Zealand government which are likely to have no or very low impacts outside of government.

Human rights implications

53. The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 or Human Rights Act 1993.

Gender implications

54. None of the proposals in this paper have gender implications.

Disability Perspective

55. None of the proposals in this paper have disability implications.

Publicity

56. The Ministry of Health will support me to prepare for the launch of the Agency at a post-Cabinet press conference which will be announced following the Cabinet meeting on 2 December 2019.

Proactive Release

57. I intend to proactively release this paper under the Official Information Act 1982 with redactions where appropriate.

Recommendations

The Minister for Health recommends that the Committee:

1. **note** that on 28 August 2019, the Cabinet Social Wellbeing Committee agreed under power to act that the Cancer Control Agency (the Agency) will be established as a departmental agency within the Ministry of Health by 1 December 2019 [CAB-19 MIN-0434; SWC-19-MIN-0117 refer].
2. **note** that on 28 August, the Cabinet Social Wellbeing Committee also confirmed:
 - 2.1 the estimated cost of establishing a Cancer Control Agency is \$2.017 million in 2019/20, and will be funded from Vote Health baselines
 - 2.2 § 9(2)(f)(v)
3. **note** that Cabinet decisions are required to allow the Agency to function as a legal entity and to allow the State Services Commission to commence recruitment for the Agency's chief executive.
4. **authorise** the Minister of State Services to instruct the Parliamentary Counsel Office to draft an Order in Council to name the Cancer Control Agency, as a departmental agency within the Ministry of Health, on Schedule 1A of the State Sector Act 1988, with effect from 1 December 2019.
5. **note** that subject to Cabinet and the Executive Council consideration of the Order in Council required to amend Schedule 1A of the State Sector Act 1988, the Agency will be legally established from 1 December 2019.
6. **note** that in order to have legal effect by 1 December 2019, a waiver to the gazetting notice period (the 28-day rule) will be required.
7. **note** that by 1 December 2019, the State Services Commissioner will appoint an interim acting Agency chief executive.
8. **agree** that the chief executive of the Cancer Control Agency will be responsible to the Minister of Health.
9. **note** the chief executive of the Cancer Control Agency and the Director-General of Health will agree a Departmental Agency Agreement in writing.
10. **note** final costs for the provision of corporate services will be confirmed in the Departmental Agency Agreement.

11. **note** the Ministry of Health will support the Minister of Health to prepare for the launch of the Agency, at a post-Cabinet press conference, which will be announced following the Cabinet meeting on 2 December 2019.

Authorised for lodgement

Hon Dr David Clark
Minister for Health