



Cabinet Social Wellbeing Committee

Minute of Decision

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Funded Health Services provided by Family and Whānau: Funded Family Care

Portfolio Health / Associate Health (Hon Julie Anne Genter)

On 19 September 2018, the Cabinet Social Wellbeing Committee (SWC):

- 1 **noted** that ‘Funded Family Care’ and ‘FFC’ are used to describe:
 - 1.1 Part 4A of the New Zealand Public Health and Disability Act 2000 (Part 4A);
 - 1.2 the Ministry of Health’s Disability Support Services (DSS) FFC policy;
 - 1.3 District Health Board’s Paid Family Care policies;
- 2 **noted** that Part 4A (May 2013), and subsequent Ministry FFC policy (October 2013) has been the subject of considerable national and international criticism, particularly because s 70E of Part 4A is inconsistent with the New Zealand Bill of Rights Act 1990 by preventing people from making claims of discrimination on the grounds of family status (except for retrospective claims (pre-2013) following a decision of the High Court in October 2013);

s 9(2)(f)(iv), s 9(2)(h), s 9(2)(j)

- 4 **invited** the Minister of Health and the Associate Minister of Health (Hon Julie Anne Genter) to report to SWC in November 2018 on the policy, and financial and human rights implications, options and phasing for decisions on:
 - 4.1 legislation: the repeal of Part 4A of the Act;
 - 4.2 eligibility: expanding eligibility for FFC arrangements to enable payment of:
 - 4.2.1 spouses/partners of people assessed as having high or very high needs;
 - 4.2.2 parents or close family members who live in the same residence as people under 18 years assessed as having high or very high needs;

- 4.3 operational policy issues:
- 4.3.1 changing the requirement for an employment relationship between the disabled person and family member under the DSS FFC policy;
 - 4.3.2 the type of 'care' that can be paid for;
 - 4.3.3 pay rates (similar to pay equity rates of contracted family carers);
 - 4.3.4 the way FFC would be managed in the MidCentral prototype of the transformed disability support system commencing 1 October 2018;
- 5 **agreed** that the Ministry of Health undertake targeted stakeholder engagement with an independent facilitator on change to FFC arrangements;
- 6 **noted** that targeted stakeholder engagement on FFC will be coordinated appropriately with other government consultation occurring at approximately the same time on:
- 6.1 the draft government response to the United Nations Committee on the Rights of Persons with Disabilities' List of Issues;
 - 6.2 a new Action Plan (2019-22) for the New Zealand Disability Strategy;
 - 6.3 the development of a new Action Plan for the New Zealand Carers' Strategy;
- 7 **agreed** to formally announce that the government intends to make changes to FFC arrangements including the intention to repeal of Part 4A and to undertake targeted stakeholder engagement;
- 8 **noted** that an early announcement of intent to repeal Part 4A would essentially commit the government to this action ahead of:
- 8.1 Budget 19 decisions;
 - 8.2 receipt of detailed legal advice from Crown Law on the risks of doing so and opportunities to mitigate those;
- 9 **noted** that the decision on whether Part 4A should be repealed in its entirety or replaced with some form of mitigation will be made as part of the report to SWC referred to in paragraph 4 above;
- 10 **noted** that change to FFC is one of the 2018 initiatives contributing to the government priority outcome of: "Ensure everyone who is able to is earning, learning, caring and volunteering."

Gerrard Carter
Committee Secretary

Hard-copy distribution: (see over)

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson (part of item)
Hon Phil Twyford
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon Stuart Nash (part of item)
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Tracey Martin
Hon Kris Faafoi
Hon Willie Jackson (part of item)
Hon Aupito William Sio
Hon James Shaw
Jan Logie, MP

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for SWC

Hard-copy distribution:

Minister of Health
Associate Minister of Health (Hon Julie Anne Genter)